

  
सत्यमेव जयते

# भारत का राजपत्र The Gazette of India

प्राधिकार से प्रकाशित  
PUBLISHED BY AUTHORITY  
साप्ताहिक  
WEEKLY

---

सं. 50]	नई दिल्ली, दिसम्बर 4—दिसम्बर 10, 2016, शनिवार/अग्रहायण 13—अग्रहायण 19, 1938
No. 50]	NEW DELHI, DECEMBER 4—DECEMBER 10, 2016, SATURDAY/AGRAHAYANA 13—AGRAHAYANA 19, 1938

---

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके  
Separate Paging is given to this Part in order that it may be filed as a separate compilation

---

भाग II—खण्ड 3—उप-खण्ड (ii)  
PART II—Section 3—Sub-section (ii)

---

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India  
(Other than the Ministry of Defence)

---

वित्त मंत्रालय  
(वित्तीय सेवाएं विभाग)

नई दिल्ली, 4 नवम्बर, 2016

**का.आ. 2362.**—वित्तीय आस्तियों का प्रतिभूतिकरण एवं पुनर्गठन तथा प्रतिभूति हित का प्रवर्तन अधिनियम, 2002 (2002 का 54) की धारा 21 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार, एतद्वारा, श्री प्रवीन कुमार शर्मा, महाप्रबंधक, भारतीय स्टेट बैंक को पदभार ग्रहण करने की तारीख से तीन वर्ष की अवधि के लिए अथवा अधिवर्षिता की आयु प्राप्त करने तक अथवा अगले आदेशों तक, जो भी पहले हो, 65000-78000 रुपए के वेतनमान में भारतीय प्रतिभूतिकरण परिसंपत्ति पुनर्निर्माण और प्रतिभूति स्वत्व की केन्द्रीय रजिस्ट्री (सीईआरएसएआई) के रजिस्ट्रार तथा प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी (केन्द्रीय रजिस्ट्री) के पद पर नियुक्त करती है।

[फा.सं. 03/2/2016-रिकवरी/डीआरटी]

वी. वी. एस. खडायत, अवर सचिव

**MINISTRY OF FINANCE****(Department of Financial Services)**

New Delhi, the 4th November, 2016

**S.O. 2362.**—In exercise of the powers conferred by the sub-section (1) of section 21 of the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (54 of 2002), the Central Government hereby appoints Shri Praveen Kumar Sharma, General Manager, State Bank of India, as Registrar and Managing Director & Chief Executive Officer (Central Registrar), Central Registry of Securitisation Assets Reconstruction and Security Interest of India (CERSAI), in the pay scale 65000-78000/-, for a period of 3 (three) years or till he attains the age of superannuation or until further orders, whichever is the earliest.

[F. No. 03/02/2016-Recovery/DRT]

V. V. S. KHARAYAT, Under Secy.

**विदेश मंत्रालय****( सी.पी.वी. प्रभाग )**

नई दिल्ली, 24 नवम्बर, 2016

**का.आ. 2363.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के उच्चायोग, किंगस्टन में श्री मार्क नामथनग्रम, सहायक अनुभाग अधिकारी को दिनांक 24 नवम्बर, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी-4330/01/2016]

प्रकाश चन्द, उप सचिव (कौंसुलर)

**MINISTRY OF EXTERNAL AFFAIRS****(CPV DIVISION)**

New Delhi, the 24th November, 2016

**S.O. 2363.**—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Mark Ngamthangrum, Assistant Section Officer as Assistant Consular Officer in High Commission of India, Kingston to perform the Consular services with effect from 24th November, 2016.

[No. T-4330/01/2016]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2364.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश ।

एतद्वारा, केंद्र सरकार भारत के दूतावास, रवात में श्री तुषार लाकरा, सहायक अनुभाग अधिकारी को दिनांक 29 नवम्बर, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है ।

[सं. टी-4330/01/2015]

प्रकाश चन्द, उप सचिव (कौंसुलर)

New Delhi, the 29th November, 2016

**S.O. 2364.**—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Tushar Lakra,

Assistant Section Officer as Assistant Consular Officer in Embassy of India, Rabat to perform the Consular services with effect from 29th November, 2016.

[No. T-4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2365.**—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 (1948 का 41) की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केंद्र सरकार भारत के दूतावास, सेंटियागो में श्री महेश शर्मा, सहायक अनुभाग अधिकारी को दिनांक 29 नवम्बर, 2016 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी-4330/01/2015]

प्रकाश चन्द, उप सचिव (कौंसुलर)

New Delhi, the 29th November, 2016

**S.O. 2365.**—Statutory Order in pursuance of clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and Fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Mahesh Sharma, Assistant Section Officer as Assistant Consular Officer in Embassy of India, Santiago to perform the Consular services with effect from 29th November, 2016.

[No. T-4330/01/2015]

PRAKASH CHAND, Dy. Secy. (Consular)

## भारी उद्योग और लोक उद्यम मंत्रालय

(भारी उद्योग विभाग)

(एईआई अनुभाग)

आदेश

नई दिल्ली, 5 दिसम्बर, 2016

**का.आ. 2366.**—विकास परिषद् (प्रक्रियात्मक) नियमावली, 1952 के नियम 2,3,4 और 5 के साथ पठित औद्योगिक (विकास एवं विनियमन) अधिनियम, 1951 (1951 का 65) की धारा 6 के द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्र सरकार, ऑटोमोबाइल और संबद्ध उद्योग विकास परिषद (डीसीएएआई) के निम्नलिखित व्यक्तियों को इस आदेश के सरकारी राजपत्र में प्रकाशित होने की तारीख से दो वर्ष की अवधि के लिए एतद्वारा सदस्य के रूप में नियुक्त करती है, यथा:-

- |    |   |         |
|----|---|---------|
| 1. | सचिव,<br>भारी उद्योग विभाग,<br>भारी उद्योग एवं लोक उद्यम मंत्रालय   | अध्यक्ष |
| 2. | सचिव,<br>वाणिज्य विभाग,<br>उद्योग भवन, नई दिल्ली                    | सदस्य   |
| 3. | सचिव,<br>सड़क परिवहन और राजमार्ग मंत्रालय,<br>परिवहन भवन, नई दिल्ली | सदस्य   |

- |     |  |       |
|-----|--|-------|
| 4.  | सचिव,<br>पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय,<br>शास्त्री भवन, नई दिल्ली   | सदस्य |
| 5.  | सचिव,<br>राजस्व विभाग, वित्त मंत्रालय,<br>नॉर्थ ब्लॉक, नई दिल्ली   | सदस्य |
| 6.  | अपर सचिव और वित्तीय सलाहकार,<br>भारी उद्योग विभाग,<br>भारी उद्योग एवं लोक उद्यम मंत्रालय   | सदस्य |
| 7.  | मुख्य कार्यकारी अधिकारी एवं परियोजना निदेशक,<br>राष्ट्रीय ऑटोमोटिव परीक्षण और अनुसंधान एवं<br>विकास अवसंरचना परियोजना (नेट्रिप), नई दिल्ली | सदस्य |
| 8.  | निदेशक,<br>भारतीय ऑटोमोटिव रिसर्च एसोसिएशन ऑफ इंडिया,<br>पुणे, महाराष्ट्र  | सदस्य |
| 9.  | अध्यक्ष,<br>भारतीय ऑटोमोबाइल मैनुफैक्चरर्स सोसायटी,<br>कोर 4-बी, ज़ोन-IV, 5वीं मंजिल,<br>इंडिया हैबिटेड सेंटर, लोधी रोड, नई दिल्ली-3       | सदस्य |
| 10. | अध्यक्ष,<br>ऑटोमोटिव कंपोनेंट मैनुफैक्चरर्स एसोसिएशन,<br>कैपिटल कोर्ट, छठा तल, ओलोफ़ पाल्मे मार्ग,<br>मुनीरका, नई दिल्ली-67                | सदस्य |
| 11. | अध्यक्ष,<br>ट्रैक्टर मैनुफैक्चरर्स एसोसिएशन,<br>23-26, इंस्टीट्यूशनल एरिया, लोधी रोड, नई दिल्ली  | सदस्य |
| 12. | श्री आर सी भार्गव, अध्यक्ष,<br>मारुति सुजुकी इंडिया लिमिटेड,<br>प्लॉट नं. 1, नेल्सन मंडेला रोड,<br>वसंत कुंज, नई दिल्ली-110070             | सदस्य |
| 13. | श्री गुंथर बुटचेक,<br>प्रबंध निदेशक,<br>टाटा मोटर्स लिमिटेड  | सदस्य |

बॉम्बे हाउस, 24, होमी मोदी स्ट्रीट,  
हुतात्मा चौक, मुंबई - 400 001

- |     |  |       |
|-----|--|-------|
| 14. | श्री पवन मुंजाल,<br>प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी<br>हीरो मोटो कॉर्पोरेशन लिमिटेड,<br>34, सामुदायिक केन्द्र, बसंत लोक,<br>बसंत विहार, नई दिल्ली            | सदस्य |
| 15. | श्री पवन गोयन्का,<br>अध्यक्ष (ऑटो सेक्टर),<br>महिंद्रा एंड महिंद्रा लिमिटेड,<br>गेटवे बिल्डिंग, अपोलो बंडर,<br>मुंबई - 400 001   | सदस्य |
| 16. | श्री विक्रम किलोस्कर, उपाध्यक्ष,<br>टोयोटा किलोस्कर मोटर प्राइवेट लिमिटेड,<br>एम्बेसी स्टार, 8, पैलेस रोड,<br>बसंतनगर, बेंगलुरु-560 052                                | सदस्य |
| 17. | श्री निशांत आर्य,<br>कार्यकारी निदेशक,<br>जेबीएम ऑटो लिमिटेड,<br>प्लॉट सं. 9, सेक्टर-44 इंस्टीट्यूशनल एरिया<br>गुरुग्राम - 122 003                                     | सदस्य |
| 18. | सुश्री मल्लिका श्रीनिवासन,<br>अध्यक्ष एवं मुख्य कार्यकारी अधिकारी<br>ट्रेक्टर एंड फार्म इक्विपमेंट लिमिटेड,<br>77, तुंगमबक्कम हाई रोड,<br>तुंगमबक्कम, चेन्नई - 600 034 | सदस्य |
| 19. | सुश्री सुलाजा फिरोदिया मोटवानी,<br>उपाध्यक्ष,<br>काइनेटिक इंजीनियरिंग,<br>डी-1 ब्लॉक, प्लॉट सं.18/2 एमआईडीसी, चिंचवाड़,<br>पुणे - 411 019                              | सदस्य |

20. श्री रोनाल्ड फोल्गर, प्रबंध निदेशक एवं मुख्य कार्यकारी अधिकारी, सदस्य  
मर्सिडीज बेंज इंडिया प्रा. लिमिटेड,  
ई-3, एमआईडीसी चाकन, फेज़-III,  
चाकन औद्योगिक क्षेत्र, पुणे - 410 501
21. मुख्य कार्यकारी अधिकारी, सदस्य  
ऑटोमोबाइल कौशल विकास परिषद,  
1/6 सीरी इंस्टिट्यूशनल एरिया, खेल गांव,  
नई दिल्ली - 49
22. महासचिव सदस्य  
फेडरेशन ऑफ ऑटोमोबाइल डीलर्स एसोसिएशन  
805, सूर्य किरण, 19, कस्तूरबा गांधी मार्ग  
नई दिल्ली - 110 001
23. अपर सचिव (ऑटोमोबाइल के प्रभारी),  
भारी उद्योग विभाग, सदस्य सचिव  
उद्योग भवन, नई दिल्ली

2. विकास परिषद् (प्रक्रियात्मक) नियमावली, 1952 के नियम 2 खंड (ग) के अनुसरण में, केन्द्र सरकार एतद्वारा उक्त विकास परिषद् के सचिव के कार्यों को निष्पादित करने के लिए ऑटो सेक्टर, भारी उद्योग विभाग, भारी उद्योग और लोक उद्यम मंत्रालय, नई दिल्ली के प्रभारी अपर सचिव को नियुक्त करती है।

[फा.सं. 7(6)/2007-एईआई(3888)]

अंशु प्रकाश, अपर सचिव

## MINISTRY OF HEAVY INDUSTRIES AND PUBLIC ENTERPRISES

(Department of Heavy Industry)

(AEI SECTION)

### ORDER

New Delhi, the 5th December, 2016

**S.O. 2366.**—In exercise of the powers conferred by Section 6 of the Industries (Development & Regulation) Act, 1951 (65 of 1951) read with rules 2, 3, 4 & 5 of the Development Council (Procedural) Rules 1952 the Central Government hereby appoints, for a period of two years from the date of publication of this order in the Official Gazette, the following persons to be Members of the Development Council for Automobiles and Allied Industries (DCAAI) namely:-

1	Secretary, Department of Heavy Industry Ministry of Heavy Industries & Public Enterprises New Delhi.	Chairman
2	Secretary, Department of Commerce, Udyog Bhavan, New Delhi.	Member

3	Secretary, Ministry of Road Transport & Highways, Transport Bhavan, New Delhi.	Member
4	Secretary, Ministry of Petroleum & Natural Gas, Shastri Bhavan, New Delhi.	Member
5	Secretary, Department of Revenue, Ministry of Finance, North Block, New Delhi	Member
6	Additional Secretary and Financial Advisor Department of Heavy Industry, Ministry of Heavy Industries & Public Enterprises, Udyog Bhavan, New Delhi.	Member
7	Chief Executive Officer and Project Director, National Automotive Testing and R&D Infrastructure Project, (NATRIP), New Delhi,	Member
8	Director, Automotive Research Association of India, Pune, Maharashtra.	Member
9	President, Society of Indian Automobile Manufacturers, Core 4-B, Zone-IV, 5 <sup>th</sup> Floor India Habitat Centre, Lodhi Road, New Delhi-3.	Member
10	President Automotive Component Manufacturers Association, Capital Court, 6 <sup>th</sup> Floor, Old Palme Marg, Munirka, New Delhi -67.	Member
11	President. Tractor Manufacturers Association. 23-26. Institutional Area. Lodhi Road. New Delhi.	Member
12	Shri R. C. Bhargava, Chairman, Maruti Suzuki India Ltd. Plot No. 1, Nelson Mandela Road, Vasant Kunj, New Delhi 110 070.	Member
13	Shri Guenter Butchek, Managing Director Tata Motors Limited. Bombay House. 24. Homi Mody Street, Hutatma Chowk, Mumbai – 400 001	Member
14	Shri Pawan Munjal, Managing Director & CEO Hero Moto Corp. Ltd., 34, Community Centre, Basant Lok, Vasant Vihar, New Delhi.	Member
15	Shri Pawan Goenka, President (Auto Sector), Mahindra & Mahindra Ltd., Gateway Building, Appollo Bunder, Mumbai - 400 001.	Member
16	Shri Vikram Kirloskar, Vice Chairman, M/s Toyota Kirloskar Motor Pvt. Ltd., Embassy Star, 8, Palace Road, Vasanthnagar. Bangalore-560 052	Member

17	Shri Nishant Arya, Executive Director, JBM Auto Ltd, Plot No : 9, Sector – 44 Institutional Area Gurgaon, 122 003.	Member
18	Ms. Mallika Srinivasan, Chairman & CEO, Tractors and Farm Equipment Limited, 77, Nungambakkam High Road, Nungambakkam, Chennai - 600 034.	Member
19	Ms. Sullaja Firodia Motwani, Vice Chairperson, Kinetic Engineering, D1 Block, Plot No.18/2 MIDC, Chinchwad, Pune – 411019.	Member
20	Mr. Roland Folger, Managing Director & CEO Mercedes Benz India Pvt. Ltd. E-3, MIDC Chakan, Phase –III, Chakan Industrial Area, Pune - 410501	Member
21	Chief Executive Officer, Automobile Skill Development Council, 1/6, Siri Institutional Area, Khel Gaon, New Delhi – 49	Member
22	Secretary General Federation of Automobile Dealers Associations 805, Surya Kiran, 19, Kasturba Gandhi Marg New Delhi 110 001	Member
23	Additional Secretary (in-charge of Automobiles), Department of Heavy Industry, Udyog Bhavan, New Delhi	Member Secretary

2. In pursuance of clause (c) of rule 2 of the Development Council (Procedural) Rules, 1952, the Central Government hereby appoints the Additional Secretary, in charge of Auto Sector, Department of Heavy Industry, Ministry of Heavy Industries & Public Enterprises, New Delhi to carry on the functions of the Secretary to the said Development Council.

[F. No. 7(6)/2007-AEI(3888)]

ANSHU PRAKASH, Addl. Secy.

### स्वास्थ्य एवं परिवार कल्याण मंत्रालय

(स्वास्थ्य एवं परिवार कल्याण विभाग)

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2367.—** जबकि भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 (1956 का 102) की धारा 20 की उप-धारा (1) के प्रावधान के अनुसरण में, केन्द्र सरकार ने दिनांक 09.01.2014 और 15.01.2014 की अधिसूचना द्वारा भारतीय आयुर्विज्ञान परिषद के सदस्यों में से स्नातकोत्तर चिकित्सा शिक्षा समिति का गठन किया है।

और जबकि भारतीय आयुर्विज्ञान परिषद अधिनियम, 1956 की धारा 7(3) में निहित प्रावधानों के अनुसरण में, भारतीय आयुर्विज्ञान परिषद की स्नातकोत्तर समिति में केन्द्र सरकार के नामितियों में से एक नामिती डॉ. सिलवानो सी.ए. डायस सैपेको का नाम गोवा विश्वविद्यालय के प्रतिनिधि के रूप में दिनांक 28.06.2016 को अधिसूचना से हटा दिया गया था।

और जबकि अधिनियम की धारा 20 की उप-धारा (2) के प्रावधान के अनुसरण में, केन्द्र सरकार द्वारा डॉ. भानु प्रकाश दूबे, डीन, एल.एन. मेडिकल कॉलेज, भोपाल को भारतीय आयुर्विज्ञान परिषद के सदस्यों में से स्नातकोत्तर चिकित्सा शिक्षा समिति के एक सदस्य के रूप में नामित किया गया है।

अब, इसलिए, अधिनियम की धारा 20 की उप-धारा (3) के प्रावधान के अनुसरण में, केन्द्र सरकार एतद्वारा भारत सरकार, स्वास्थ्य और परिवार कल्याण मंत्रालय की दिनांक 09.01.2014 की अधिसूचना में आगे निम्नलिखित संशोधन करती है, नामतः

**केन्द्र सरकार द्वारा नामित**

- (1) डॉ. भानु प्रकाश दूबे,  
डीन, एल.एन. मेडिकल कॉलेज,  
भोपाल

[सं. वी.11013/05/2013-एमईपी (भाग)]

अमित विश्वास, अवर सचिव

**MINISTRY OF HEALTH AND FAMILY WELFARE**

**(Department of Health and Family Welfare)**

New Delhi, the 29th November, 2016

**S.O. 2367.**—Whereas in pursuance of the provision of sub-section (1) of section 20 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government has constituted a Post-Graduate Medical Education Committee from among the members of the Medical Council of India vide notification dated 09.01.2014 and 15.01.2014.

And whereas the name of one of the nominees of the Central Government in the Post-graduate Committee of the Medical Council of India, Dr. Silvano C.A. Dias Sapeco was de-notified on 28.06.2016 as representative of Goa University in pursuance of the provisions contained in Section 7(3) of Indian Medical Council Act, 1956.

And whereas in pursuance of the provision of sub-section (3) of Section 20 of the Act, Dr. Bhanu Prakash Dubey, Dean, L.N. Medical College, Bhopal has been nominated by the Central Government from amongst the members to be a member of the Post-Graduate Medical Education Committee of the Medical Council of India.

Now, therefore, in pursuance of the provision of sub-section (3) of Section 20 of the Act, the Central Government makes the following further amendment in the notification dated 09.01.2014 of the Government of India, Ministry of Health & Family Welfare, namely:-

**NOMINATED BY THE CENTRAL GOVERNMENT**

- (1) Dr. Bhanu Prakash Dubey,  
Dean, L.N. Medical College,  
Bhopal

[No. V.11013/05/2013-MEP(Pt.)]

AMIT BISWAS, Under Secy.

**मानव संसाधन विकास मंत्रालय**

**(उच्चतर शिक्षा विभाग)**

**(राजभाषा प्रभाग)**

नई दिल्ली, 30 नवम्बर, 2016

**का.आ. 2368.**—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उप नियम 4 के अनुसरण में, मानव संसाधन विकास मंत्रालय (स्कूल शिक्षा एवं साक्षरता विभाग) के अंतर्गत निम्नलिखित कार्यालयों को, ऐसे कार्यालय के रूप में, जिनके 80 प्रतिशत से अधिक कर्मचारी-वृन्द ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, अधिसूचित करती है :-

1.	जवाहर नवोदय विद्यालय मंडी, हिमाचल प्रदेश - 175124
2.	जवाहर नवोदय विद्यालय घरोटा, जम्मू - I, जम्मू व कश्मीर - 181122
3.	जवाहर नवोदय विद्यालय सांबा, जम्मू व कश्मीर - 184121
4.	जवाहर नवोदय विद्यालय जालंधर, पंजाब - 144625
5.	जवाहर नवोदय विद्यालय कपूरथला, पंजाब - 144628
6.	जवाहर नवोदय विद्यालय पटियाला, पंजाब - 147103
7.	जवाहर नवोदय विद्यालय सुरेन्द्रनगर, गुजरात - 363310
8.	जवाहर नवोदय विद्यालय बुलढाणा, महाराष्ट्र - 444203
9.	जवाहर नवोदय विद्यालय जालना, महाराष्ट्र - 431501
10.	जवाहर नवोदय विद्यालय परभनी, महाराष्ट्र - 431402

[सं.11011-3/2016-रा.भा.ए.]

सुखबीर सिंह संधु, संयुक्त सचिव

**MINISTRY OF HUMAN RESOURCE DEVELOPMENT****(Department of Higher Education)**

(O.L. UNIT)

New Delhi, the 30th November, 2016

**S.O. 2368.**—In pursuance of sub-rule (4) of rule 10 of the Official Languages (Use for Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the following offices under the Ministry of Human Resource Development, (Department of School Education & Literacy) as office, whose more than 80% members of the staff have acquired working knowledge of Hindi :-

1.	Jawahar Navodaya Vidyalaya Mandi, Himachal Pradesh - 175124
2.	Jawahar Navodaya Vidyalaya Gharota Jammu-I, Jammu & Kashmir - 181122
3.	Jawahar Navodaya Vidyalaya Samba, Jammu & Kashmir - 184121
4.	Jawahar Navodaya Vidyalaya Jalandhar, Punjab - 144625
5.	Jawahar Navodaya Vidyalaya Kapurthala, Punjab - 144628
6.	Jawahar Navodaya Vidyalaya Patiala, Punjab - 147103
7.	Jawahar Navodaya Vidyalaya Surendranagar, Gujarat - 363310
8.	Jawahar Navodaya Vidyalaya Buldana, Maharashtra - 444203
9.	Jawahar Navodaya Vidyalaya Jalna, Maharashtra - 431501
10.	Jawahar Navodaya Vidyalaya Parbhani, Maharashtra - 431402

[No. 11011-3/2016-O.L.U.]

SUKHBIR SINGH SANDHU, Jt. Secy.

**कोयला मंत्रालय**

नई दिल्ली, 7 दिसम्बर, 2016

**का.आ. 2369.**—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उपधारा (1) के अधीन जारी भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii), तारीख 4 अक्टूबर, 2016 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना का.आ. संख्यांक 3142(अ), तारीख 3 अक्टूबर, 2016 के प्रकाशन पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि, (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है), में के सभी अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप में केन्द्रीय सरकार में निहित हो गए थे ;

और, केन्द्रीय सरकार का यह समाधान हो गया है, कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, पोस्ट बाक्स संख्या 60, जिला बिलासपुर-495 006 (छत्तीसगढ़) (जिसे इसमें इसके पश्चात् उक्त सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिए रजामंद है ;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार उक्त भूमि और उक्त भूमि में या उस पर के सभी अधिकार तारीख 4 अक्टूबर, 2016 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :-

1. सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, व्याज, तुकसानियों और वैसी ही मदों की बाबत किए गए सदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी ;
2. शर्त (1) के अधीन सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और किसी ऐसे अधिकरण और अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपीलों आदि जैसी सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे ;
3. सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो ;
4. सरकारी कंपनी को केन्द्रीय सरकार के पूर्व अनुमोदन के बिना उक्त भूमि का किसी अन्य व्यक्ति को अंतरण करने की शक्ति नहीं होगी ; और
5. सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेगी, जो केन्द्रीय सरकार द्वारा उक्त भूमि के विशिष्ट क्षेत्रों के लिए जब कभी आवश्यक हो, दिए जाएं या अधिरोपित किए जाएं ।

[फा.सं. 43015/23/2016—पीआरआईडब्ल्यू-1]

सुजीत कुमार, अवर सचिव

**MINISTRY OF COAL**

New Delhi, the 7th December, 2016

**S.O. 2369.**—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S. O. 3142(E), dated the 3<sup>rd</sup> October, 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 4<sup>th</sup> October, 2016, issued under Sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and all rights in or over the said land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas, the Central Government is satisfied that the South Eastern Coalfields Limited, Seepat Road, P.B. No. 60, District Bilaspur-495 006 (Chhattisgarh) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby direct, that the said land and all rights in or over the said land so vested shall with effect from the 4<sup>th</sup> October, 2016 instead of continuing to so vest in the Central Government, shall vest in the Government Company, subject to the following terms and conditions, namely :-

1. The Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
2. A Tribunal shall be constituted under section 14 of the said Act for the purpose of determining the amounts payable to the Central Government by the Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands, so vesting, shall also be borne by the Government Company;
3. The Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials, regarding the rights in or over the said land so vested;
4. The Government Company shall have no power to transfer the lands to any other persons without the prior approval of the Central Government ; and
5. The Government Company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/23/2016-PRIW-I]

SUJEET KUMAR, Under Secy.

नई दिल्ली, 7 दिसम्बर, 2016

**का.आ. 2370.**—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी, भारत के राजपत्र, असाधारण, भाग II, खंड 3, उप-खंड (ii), तारीख 27 जुलाई, 2016 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना का. आ. संख्यांक 2550(अ), तारीख 26 जुलाई, 2016 के प्रकाशन पर उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि और ऐसी भूमि, (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है), में के सभी अधिकार, उक्त अधिनियम की धारा 10 की उपधारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप में केन्द्रीय सरकार में निहित हो गए हैं;

और, केन्द्रीय सरकार का यह समाधान हो गया है, कि ईस्टर्न कोलफील्ड्स लिमिटेड, संकतोड़िया, डाकघर – दिशेरगढ़, जिला बर्द्धवान- 713 333 (पश्चिम बंगाल) (जिसे इसमें इसके पश्चात् उक्त सरकारी कंपनी कहा गया है), ऐसे निबंधनों और शर्तों का, जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना ठीक समझे, अनुपालन करने के लिए रजामंद है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उप-धारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है, कि इस प्रकार निहित उक्त भूमि में या उस पर के सभी अधिकार तारीख 27 जुलाई, 2016 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने के बजाए, निम्नलिखित निबंधनों और शर्तों के अधीन रहते हुए, सरकारी कंपनी में निहित हो जाएंगे, अर्थात् :-

- (1) सरकारी कंपनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, व्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी ;
- (2) शर्त (1) के अधीन सरकारी कंपनी द्वारा केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजनों के लिए उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा और किसी ऐसे अधिकरण और अधिकरण की सहायता के लिए नियुक्त व्यक्तियों के संबंध में उपगत सभी व्यय, सरकारी कंपनी द्वारा वहन किए जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिए या उनके संबंध में अपीलों आदि जैसी सभी विधिक कार्यवाहियों की बाबत उपगत, सभी व्यय भी, सरकारी कंपनी द्वारा वहन किए जाएंगे ;

- (3) सरकारी कंपनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में क्षतिपूर्ति करेगी, जो इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के बारे में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो ;
- (4) सरकारी कंपनी को केन्द्रीय सरकार के पूर्व अनुमोदन के बिना उक्त भूमि और भूमि में या उस पर के इस प्रकार निहित अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी ; और
- (5) सरकारी कंपनी, ऐसे निदेशों और शर्तों का पालन करेगी, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमि के विशिष्ट क्षेत्रों के लिए दिए जाएं या अधिरोपित किए जाएं ।

[फा.सं. 43015/22/2016—पीआरआईडब्ल्यू-1]

सुजीत कुमार, अवर सचिव

New Delhi, the 7th December, 2016

**S.O. 2370.**—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, number S. O. 2550(E), dated the 26<sup>th</sup> July, 2016, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 27<sup>th</sup> July, 2016, issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the land and all rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act ;

And whereas, the Central Government is satisfied that the Eastern Coalfields Limited, Sanctoria, Post-Dishergarh, District – Burdwan-713333 (West Bengal) (hereinafter referred to as the Government Company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby direct, that the said land and all rights in or over the said land so vested shall with effect from 27<sup>th</sup> July, 2016 instead of continuing to so vest in the Central Government, shall vest in the Government Company, subject to the following terms and conditions, namely :-

- (1) the Government Company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like, as determined under the provisions of the said Act;
- (2) a Tribunal shall be constituted under section 14 of the said Act for the purpose of determining the amounts payable to the Central Government by the Government Company under conditions (1) and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the Tribunal shall be borne by the Government Company and similarly, all expenditure incurred in respect of all legal proceedings like appeals, etc. for or in connection with the rights, in or over the said lands, so vesting, shall also be borne by the Government Company;
- (3) the Government Company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials, regarding the rights in or over the said land so vested;
- (4) the Government Company shall have no power to transfer the lands to any other persons without the prior approval of the Central Government ; and
- (5) the Government Company shall abide by such direction and conditions as may be given or imposed by the Central Government for particular areas of the said lands, as and when necessary.

[F. No. 43015/22/2016-PRIW-I]

SUJEET KUMAR, Under Secy.

**श्रम एवं रोजगार मंत्रालय**

नई दिल्ली, 21 अक्टूबर, 2016

**का.आ. 2371.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एसईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 160/95) को प्रकाशित करती है जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-22012/418/1991-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

**MINISTRY OF LABOUR AND EMPLOYMENT**

New Delhi, the 21st October, 2016

**S.O. 2371.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 160/95) of the Central Government Industrial Tribunal-cum-Labour Court, Jabalpur as shown in the Annexure, in the Industrial Dispute between the management of M/s. South Eastern Coalfields Limited and their workmen, received by the Central Government on 21.10.2016.

[No. L-22012/418/1991-IR (CM-II)]

RAJENDER SINGH, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,  
JABALPUR****NO. CGIT/LC/R/160/95**

Dy. General Secretary,  
National Colliery Workers Federation,  
Post Kotma colliery,  
Distt. Shahdol

...Workman/Union

**Versus**

General Manager,  
Jamuna and Kotma Area of SECL,  
Post Jamuna colliery,  
Distt. Shahdol

...Management

**AWARD**Passed on this 17<sup>th</sup> day of August 2016

1. As per letter dated 29-8-95 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-22012/418/91-IR(C-II). The dispute under reference relates to:

“Whether the action of the management of Jamuna and Kotma area of SECL in not regularizing twelve tyndal mazdoors on company roll and payment of wages to these workers according to National Coal Wage Agreement is legal and justified? If not to what relief the workmen are entitled to?”

2. After receiving reference, notices were issued to the parties. Ist party Union submitted statement of claim at Page 6/1 to 6/8. Case of Ist party Union is it is registered under Trade Union Act. The Union is affiliated to National Labour Organisation. Ist party further submits that 12 tyndal mazdoors connected with the dispute were continuously working in Regional Stores of J& K Area, SECL since 1982. Their services are covered by NCWA. They are entitled for regularization in service. it is alleged that to deprive status of permanent employee, they are not regularized. That those 12 tyndal mazdoors were deployed in various jobs in regional stores as well as other places of the mine as per direction

given by Depot Officer, Regional Stores. They were honestly performing their duties since 1984 onwards, without any break. They are performing work of moving engineering items and stocks from the stores, drums of oil and grease and also engaged for erection, dismantling of structures, installation and withdrawal of machineries. They were also deployed for loading and unloading of the store items like pipes, iron and steel materials, plant and cement from one place to another in mines in the company's truck. They were also employed for loading of timbers from company's track to Private tracks, loading unloading of the store materials. As per job nomenclature under Central Wage Board, they are performing job of tyndal in Cat-IV.

3. Ist party Union further submits that despite the claimants were doing job of tyndal workers, they were not paid wages of said category. They were not paid wages of Category I employees. They are working since past 16 years as tyndal mazdoors. Their services are not regularized amounts to unfair labour practice. That all those claimants are not paid wages as per NCWA. They are discriminated by paying less wages and denying regularization it is further submitted that wage structure and other service conditions of service including fringe benefits of employees are covered under recommendations of Central Wages Board is accepted by Government w.e.f 15-8-67, 3<sup>rd</sup> Coal Wage Agreement from 1-1-1983. It is reiterated that despite of continuous 16 years service, those above tyndal workers are not regularized in job. Management has engaged in unfair labour practice. Union further submits that their wages have been paid on the basis of slips issued by various Unions in name of tyndal mazdoor Mannu. Shri Mannu himself is a worker who is also performing the same job of tyndal. Mannu cannot become contractor unless he has been duly licenced by the Labour Department. It is submitted that paper arrangement made by the management is illegal. Management adopted illegal method and procedure in distribution of wages. The entire wages of workman after calculation were given to Mannu who used to distribute amount equally among above 12 tyndal workers. Union has raised dispute. Ist party submits that 2<sup>nd</sup> party has engaged in unfair labour practice under Item 10. It is prayed that all 12 tyndal mazdoors are entitled to difference of wages and all other fringe benefits as per NCWA.

4. 2<sup>nd</sup> party filed Written Statement opposing claim of Union. 2<sup>nd</sup> party submits that the order of reference is illegal and vague. Reference is not tenable. The word regularizing the tyndal mazdoors used in the term of reference is absolutely illegal. Question of regularizing is used only when there is appointment of claimants. 2<sup>nd</sup> party denied engagement of the claimants. Preliminary objection is submitted that management had filed application for better particulars. The particulars were not supplied. The reference cannot be adjudicated. That during pendency of decision on the application, appropriate Government vide corrigendum dated 13-12-06 sent list of claimants. The full names of the claimants, their date of birth, permanent address, present address, qualification, particulars of appointment, period of working, place and nature of work are not given. Identical marks of the claimants are not given. Applications were rejected vide order dated 15-11-07.

5. 2<sup>nd</sup> party further submits that Union has no locus standi to raise dispute as the claimants are not employed in coal industry, claimants are not covered as workman under section 2(s) of ID Act. The appointment in coal industry is governed by certain statutory rules and regulations. A person seeking employment in the coal industry has to go through the entire procedure prescribed for getting appointment. As per direction of Central Government, employment has to go through procedure prescribed. As per direction of Central Government, employment of lower cadre is made only through Employment Exchange. SECL is covered by public employment guaranteed under Article 16. The claimants are not seeking employment through Employment Exchange. Their names were not sponsored through Employment Exchange. Their regularization will be violative of Article 16 of the constitution.

6. 2<sup>nd</sup> party further submits that management is entitled to get miscellaneous casual job executed through contractor workers employed by said contractors are not employees of SECL. Work awarded by contractor is not permanent. Such type of work which require minimum diverse and involvement of money is very less given to local contractors. In central stores and other nit of area, departmental permanent workers are engaged for loading unloading of the consignment received from the railway transporting agency. Sometimes local contractors are awarded transportation of store materials such as timbers, cements, lime, dolomite powder etc. The loading unloading of materials were in it for compliance of the terms of unloading the material by the contractor. That the loading unloading charges were paid to such labours by the driver of the contractors. In the case of loading unloading of materials which were transported by departmental trucks from different places like railway station/ transporting agency and other areas of the company etc., the drivers of the truck or staff who were deputed for the job used to draw the advance from the accounts department and paid the loading unloading charges to the private mazdoors at both the end.

7. 2<sup>nd</sup> party reiterates that all 12 claimants were not engaged for loading unloading work. They are not employee of SECL. They are not entitled for regularization. Claimants have not completed 240 days continuous service. local contractors were given casual nature of work which are executed by himself as such contractors get money under contract payment of remuneration to the persons engaged by him is as per understanding. On such contentions, 2<sup>nd</sup> party prays for rejection of claim.

8. Considering pleadings on record, the points which arise for my consideration and determination are as under. My findings are recorded against each of them for the reasons as below:-

(i) Whether the action of the management of Jamuna and Kotma area of SECL in not regularizing twelve tyndal mazdoors on company roll and payment of wages to these workers according to National Coal Wage Agreement is legal and justified?	In Negative
(ii) If not, what relief the workman is entitled to?"	As per final order.

### REASONS

9. The term of reference pertains to denial of regularization of 12 tyndal mazdoors i.e. claimants. The application for better particulars submitted by 2<sup>nd</sup> party was rejected after names of claimants were sent by Central Government along with letter dated 13-12-06. Management had denied engagement of all those claimants. Isat party Union filed affidavit of evidence of Sheikh Hadis, Pratipal Singh, Vidyasagar Singh and Arun kanti Dasgupta. Mr. Sheikh Hadis in his affidavit stated that he was working in stores as tyndal mazdoor from 1982 along with other 11 claimants. They were kept in Category I. the work of loading unloading engineering materials from truck, loading unloading of timber, oil and grease drums etc. was taken from them. Additional work of unloading explosive was also done by them. In 1989, some workers completing 240 days were regularized. Thereafter the dispute was raised through Union. Government refused to make reference after order by Hon'ble High Court in Writ Petition No. 2542/92, the dispute is referred. During pendency of reference, his services are terminated on 30-12-95 in violation of Section 33-A of ID Act. That their wages were paid to tyndal mazdoor Mannu shoing him as contractor. Work of loading unloading was done by them within the boundary of central store of the colliery. After completion of 240 days, he was not regularized. Management has engaged in unfair labor practice.

10. Shri Sheikh Hadis in his cross examination says he is member of the Union from 1982. There was no advertisement for recruitment in 1982. He did not remember how many days he had worked in a month. He was unable to tell his working days during 1982 to 85. He has no knowledge about violation of legal provisions. The materials were brought in truck to the stores. He was remaining present. He was assigned work of loading unloading of materials in stores. He denied that he was working under contractor and he also denied that contractor was paying wages to him. He was paid wages on daily wage basis Rs. 8 to 9000 per month. Pay slip was not given to him. His signature was obtained on paper, store officer was making payments. Sometimes officer Mr. Saxena or Depot Officer used to make payments. He was unable to tell name of Depot Manager. The evidence of Sheikh Hadis that he was working in store, loading unloading materials is not shattered in his cross.

11. Shri Pratipal Singh his in affidavit of evidence says that he was working as Asstt. Store Keeper in regional stores, J&K Area during 1977 to 1986. He was promoted to Store Keeper Grade I. he retired in 2011. He has also supported evidence of Sheikh Hadis that Mannu and other workers were doing work of loading unloading of timber, oil and grease drums etc during the period 1982 to December 95. They were terminated on 38-12-95. Shri Vidyasagar in his affidavit of evidence says he was magazine store incharge in 1979. He was acquainted with Mannu and 11 others. They were working in magazine store in Category I General Mazdoor. They were doing work of loading unloading till year 1995. Pratipal Singh in his cross says he is member of INTUC Union, he was not office bearer of said Union. He claimed ignorance who was Appointing authority for General Mazdoor. His appointment as clerk was from sports quota. Appointment letter was not given to him. He was directly appointed. In 1971 mine was private. During said period, he was appointed. General Mazdoor are appointed calling names from Employment Exchange and interview. He claims ignorance how the claimants were appointed. He reiterates that he personally knows the claimants. He had not appointed any of the claimants. When the materials were taken by truck to the store, claimants used to be called for unloading. He was unable to tell at what rate the claimants were paid. The evidence of Pratipal Singh was also employee working in the store is not shattered that claimants were doing the work of loading unloading in the store.

12. Shri Vidyasagar in his cross-examination says in 2002, he was retired from post of magazine incharge. Office of magazine incharge is in forest. He was member of INTUC Union. Any of the claimants were not appointed by him. All the claimants were engaged by Store Incharge Shri D. Mishra. He was unable to tell the working days of the claimants. From where the materials from store were transported, he could not tell. In magazine office, work relates to explosive. He doesnot know about other work. The work of storing explosive was done by labours from stores who were regular employees. There is no suggestion in cross-examination of Sheikh Hadis, Pratipal Singh, and Vidyasagar Singh that claimants had not done work of loading unloading materials in the store.

13. Affidavit of Arun Kanti Dasgupta is that the dispute was raised by Union NCWF. Said Union is merged with South Eastern Koyla Mazdoor Congress. His affidavit is further devoted on the point that claimants Mannu and others referred in the list along with terms of reference were deployed in various jobs in Regional Stores as well as other places of mines as well as depots of Regional Store. Since 1981, they were honestly doing their work without break. Management not absorbed them in service. Job description and nomenclature of coal workers envisages by Central Coal Wage Board for mines. The tyndal workers are performing job of Category IV. The nature of job performed by the claimant and workers who are regularized is identical. The claimants are discriminated by not regularizing their services after completion of 240 days. In his cross-examination, Arun Kanti Dasgupta says present dispute was raised by NCWF. Said Union is merged in INTUC. Document in that regard is not produced on record. He claims ignorance about the proceeding filed by Industrial Court, Raipur in the matter of merger of Union. At the time dispute was raised, he was working in Regional Stores, J&K Area. He was appointed as General Mazdoor, store clerk by order in writing. He claims ignorance that who ever is appointed by management, written order is issued. He denies that he being office bearer of Union was not doing any office work and used to remain absent. He has no knowledge of appointment of all the claimants but they all were working in the stores. The claimants were engaged by depot Officer Shri D.Mishra and Mr. Sinha. The claimants were paid daily wages. He doesnot know the rate of wages paid. He admits that in stores, dolomite timber cement are transported. He denies that transporters were taking materials to Regional Stores and the claimants were paid by the drivers of the truck. He was unable to tell whether the amount was reimbursed to the Driver. How many General Mazdoors were regularized in J&K Area, he could not tell the figure. He denies that claimants were not paid wages by management. He denies that claimants were not members of NCWF Union. He retired 2 years back.

14. 2<sup>nd</sup> party filed affidavit of evidence of Shri Ashok Kumar Singh. His affidavit is devoted on the point that appointment in coal industry is covered by certain statutory rules. The employees who are regularly appointed following procedure only are regular employees. That work in central stores units of area, departmental permanent workers are employed for loading, unloading of consignment received from the Railway Transporting Agency. In normal practice exercised by contractors that the driver of such contractors were engaging labours who could be regularly available for loading unloading. The charges were paid to local labours by drivers of the contractors. In case of loading unloading materials which were transported by departmental trucks from different places like Railway Station/ transporting agencies and other areas of the company etc. the drivers of the truck or staff who were deputed for the job used to draw the advance from the accounts department and paid the loading and unloading charges to the private mazdoors. Claimants were never engaged by management of SECL. In his cross-examination, management's witness says he was working in Regional Store during 1982 to 1989. He doesnot know the claimants related with the dispute. The mines under control of 2<sup>nd</sup> party are Kotma, Govinda, Badra spread over 10 KM area. Steel, wooden articles are supplied to underground mine from Regional Godown. About 25 to 30 labours were working in Regional godown. They were employees of SECL. They were doing work of loading unloading steel, wooden articles, 4-5 vehicles were used for such work. The labours were coming from the unit. No contractor was engaged in Regional Stores. He admits that huge wooden logs were transported to the Regional godown. The labours were taking wooden logs to saw mill. He claimed ignorance that the claimants were unloading wooden logs from truck. He claims ignorance that claimants were paid by Store keeper Shri S.P.Sharma. Shri S.P.Sharma and G.N.Mishra were working as store keeper. He is not acquainted with Vidyasagar. In Regional godown, steel, cement, heavy machines dolomite used to be stored. He claims ignorance that loading unloading work was done by the claimants during 1981 to 1989, he was working in other department and he has no knowledge about who had done loading unloading of materials. He admits that the material received in Regional Office belong to the company. The driver was employee of the management. Management's witness admits that any licenced contractor was not engaged for loading unloading work. He claimed ignorance that claimants are still residing in the quarters of the company. If evidence of the witnesses of Ist party is carefully considered with the evidence of management's witness, in cross-examination of all witnesses of Ist party, there is no suggestion that claimants were not doing loading unloading work. Management's witness admits that there was no licenced contractor engaged in Regional Stores. Any driver who was paying amount of loading unloading charges is not examined. The documents about payment of advance and reimbursement are not produced. Therefore I donot find reason to disbelieve evidence of Shri Sheikh Hadis, Pratipal Singh, Vidyasagar Singh and Arun kanti Dasgupta that the claimants were doing the work of loading unloading materials in Regional godown since 1982 to 1995.

15. 2<sup>nd</sup> party has raised objection that claimants are not covered as workman. The pleadings and evidence of Ist party is clear that the claimants were doing work of loading unloading materials in Regional godown. On the point, learned counsel for Ist party relies on ratio held in case of

Hussain Bhai versus Alath Factory, Tezhilali Union and others reported in 1978-LAB-I.C-1264. Their Lordship dealing with Section 2(s),(G) of ID Act held where a worker or group of workers to produce goods or services are for the business of another that other is in fact the employer. He has economic control over the workers subsistence, skill and continued employment. If he, for any reason, chokes off, the worker is, virtually laid off.

The presence of intermediate contractors with whom alone the workers have immediate or direct relationship ex contractu is of no consequence when on lifting the veil or looking at the conspectus of factors governing employment, it is found, though draped in different perfect paper arrangement, that the real employer is the management, not the immediate contractor.

In present case, evidence of witnesses of Ist party is clear that claimants were doing work of loading unloading i.e. manual work. 2<sup>nd</sup> party has not produced documents w.r.t. contractors engaged for such work, payment of advance and reimbursement. Evidence on record clearly shows as claimants were doing manual work of loading unloading, they are covered as workman under Section 2(s) of ID Act. In absence of any evidence about the contractors engaged, 2<sup>nd</sup> party is the employer. Evidence of Ist party is clear that the claimants were doing the work of loading unloading materials from 1982 to 1995.

16. Learned counsel for Ist party Shri S.K.Rao relies on ratio held in case between-

Umralla Gram Panchayat versus Secretary, Municipal Employees Union and others reported in 2015-AIR-SCC-2240. Their Lordship dealing with safai kamdars of Panchayat served more than 240 days. Work done by them and their working hours were same as that of permanent workmen. Their working hours are same as that of permanent workman, discrepancy in payment of wages between permanent and non-permanent workmen is unfair labour practice.

17. Shri A.K.Shashi learned counsel for 2<sup>nd</sup> party submits that burden to prove 240 days working of complainant lies on Ist party is not discharged. The valuation of Section 25-F is not established in support of his argument, he relies on ratio held in case of-

Bhavnagar Municipal Corporation and others versus Jadeja Govubha Chhanubha and another reported in 2014(16)SCC-130. Their Lordship dealing with ownus of proof held for order of termination to be held illegal on account of non payment of retrenchment compensation, it is essential for the workman to prove that he was in continuous service of employer for 240 days. Burden to prove such continuous service lies on the workman.

In present case, evidence of witnesses of Ist party about claimants doing work of loading unloading during 1982 to 1995 is not shattered in their cross-examination. Evidence of Ist party is sufficient to hold that Ist party claimants worked more than 240 days. Term of reference pertains to denial of regularization and not legality of termination of service therefore ratio held in the case cannot be applied to case at hand.

Next reliance is placed in case of General Manager (OSD), Bengal Nagpur Cotton Mills, Rajnandgaon and Bharat Lal and another reported in 2011-I-LLJ-321(SC). Their Lordship dealing with Section 2(13), 3(3) and 65(3) of MP Industrial Relations Act 1960 held finding that security guard direct employee of cotton mills and not of contractor was not sustainable observing that the person concerned had suppressed material facts disintitling to any relief.

In present case, though management has alleged that local contractor was engaged and local labours were engaged by the contractor, no cogent evidence on the point is adduced by management. Therefore ratio held in above case cannot be applied to case at hand.

Reliance is also placed on case between Post Master General Kolkata and others versus Tutu Das(Dutta0 reported in 2007(5)SCC 317. Their Lordship dealing with irregular appointees- State Government's power with respect to circular directing regularization in contravention of statutory rules. Impermissibility no regularization is permissible in exercise of executive power under Article 162 of the constitution if the appointments have been made in contravention of the statutory rules.

In present case, evidence on record is clear appointment others were not issued to workman. However they were continuously doing work of loading unloading in Regional store from 1982 to 1995 is covered under Item 10 Schedule V. its verbatim is reproduced-

To employ workmen as badlis, casuals or temporaries and to continue them as such for years with the object of depriving them of the status and privileges of permanent workmen is unfair labour practice.

Despite of Ist party claimants engaged for loading unloading work from 1982 to 1995, their services were not regularized.

Ratio held in case between State of UP versus Labour Court, Haldwani and others reported in 1999 LLR 439. That the engagement on day to day basis and as such refusal to appoint him did not amount to retrenchment cannot be applied to case at hand as workman was engaged for loading unloading work for 16 years are denied regularization. For reasons discussed above, I record my finding in Point No.1 in Negative.

18. Point No.2- In view of my finding in Point No.1 action of management in denying regularization of Ist party claimants is illegal, question remains for consideration is whether Ist party claimants are entitled for regularization with

backwages. Learned counsel for 2<sup>nd</sup> party Shri A.K.Shashi submits that services of claimants were terminated. Their claim for regularization is not tenable. In support of above argument, learned counsel relies on ratio held in

Oshiar Prasad and others versus employers in relation to management of Sudamdih coal washery of BCCL, Dhanbad, Jharkhand reported in 2015-I-LLJ-513(SC). Their Lordship in para 26, 27 held services of and those at whose instance the reference was made were terminated long back prior to making of the reference. These workers were therefore not in the services of either contractor or and BCCL on the date of making the reference in question. Therefore there was no industrial dispute that existed or apprehended in relation to appellants absorption in the services of the BCCL on the date of making the reference.

Since the appellant's services were discontinued or / and retrenched long back, the question of their absorption/regularization in the services of BCCL as claimed by them did not arise and nor this issue could have been gone into on its merits for the reason that it was not legally possible to give any direction to absorb regularize the appellants.

Ratio held in above cited case cannot be applied to case at hand as order of reference was issued on 29-8-95. In statement of claim and Written Statement of 2<sup>nd</sup> party, there is no clear pleading about termination of services of claimants. In affidavit of witness Sheikh Hadis, Pratipal Singh, Vidyasagar Singh, it is stated that services of claimants were terminated on 30-12-95. Evidence on above point remained unchallenged. Thus services of claimants are terminated during pendency of reference.

Section 33 of ID Act provides-

During the pendency of any conciliation proceedings before a conciliation officer or a Board or of any proceeding before [an arbitrator or] a Labour Court or Tribunal or National Tribunal in respect of an industrial dispute, no employer shall,

(a) in regard to any matter connected with dispute, alter, to the prejudice of the workmen concerned in such dispute, the conditions of service applicable to them immediately before the commencement of such proceedings; or.....

As such termination of Ist party claimants is in violation of Section 33 (1)(a) of ID Act is illegal.

Shri A.K.Shashi relies on ratio held in case between

Jaipur Development Authority versus Ramsahai and another reported in 2006(110SCC-684. Their Lordship dealing with Section 25 G,H of ID Act held irregular appointment of daily wager on seasonal work. Nothing to show that when his services were terminated any person junior to him had been retained. In a case as the present one it would not be proper to direct reinstatement with back wages, compensation Rs.75000 was awarded.

In case between Sr. Superintendent Telegraph Traffic, Bhopal versus Santosh Kumar Seal and others reported in 2010(6)SCC 773. Their Lordship dealing with violation of Section 25-F of ID Act held relief by way reinstatement with backwages when shouldnot be granted. The appellant employers were directed to pay monetary compensation of Rs. 40,000 to each of the workmen.

In case of Dhampur Sugar Mills Ltd versus Bhola singh reported in AIR-2005-SC-790. Their Lordship dealing with daily wager claim for regularization of services held completion of 240 days continuous service in a year be itself ground for directing regularization of services particularly in case when workman had not been appointed in accordance with extant rules.

Next it is argued by Shri A.K.Shashi that particulars of the claimants are not supplied despite the application submitted by management. The identity of claimants is not established therefore claim for regularization cannot be allowed. Except Sheikh Hadis, other claimants have not filed their evidence. In the list of workman received along with letter dated 13-12-06, age, address of Ist party claimants are not disclosed. Shri Sheikh Hadis has filed his affidavit of evidence, his age is shown 50 years on 28-5-12. Detailed address is also given therefore regularization cannot be denied to Shri Sheikh Hadis. As other claimants have not adduced evidence, evidence about their age is not available, claim for regularization would not be justified. Considering the other claimants had done work of loading unloading for 16 years, compensation Rs. One Lakh would be appropriate whereas Shri Sheikh Hadis deserves to be absorbed in service.

19. Ist party workmen were not issued appointment letters, however they were not regularized even after 16 years is unfair labour practice under Item 10, Schedule V. however for different reasons, regularization except Shri Sheikh Hadis is not justified. Evidence about the claimants working as tyndal labours is not acceptable. Provisions of central coal wage board are not produced in the matter. However they were doing work of loading unloading, evidence of the witnesses of Ist party Vidyasagar claimants were working in Magazine store as General Mazdoor Category I is

unchallenged. I hold that Sheikh deserves to be absorbed in service in General Mazdoor Category- I. Accordingly I record my finding in point No.2.

20. In the result, award is passed as under:-

- (1) The action of the management in not regularizing 12 claimants as Category I Mazdoors on company roll is illegal.
- (2) 2<sup>nd</sup> party is directed to regularize/ absorb Shri Sheikh Hadis in General Mazdoor Category I with 50 % back wages from the date of order of reference i.e. 29-8-95. 2<sup>nd</sup> party is directed to pay compensation Rs. One Lakh to claimants Shri Mannu, S/o Raghubeer, Shri Sekh Sattar S/o Sekh Jabbar, Shri Mohan S/o Tularam, Shri Raj Kumar S/o Mahabeer, Shri Pratap S/o Deshraj, Shri Shreepal S/o Dharamraj, Shri Ranjeet S/o Motilal, Shri Deeraj S/o Dasarath, Shri Materli S/o Ramgopal, Shri Ram singh S/o Prahlad & Shri Manuwa S/o Sidhoo.

Amount as per above order shall be paid to workman within 30 days from the date of notification of award. In case of default, amount shall carry 9 % interest per annum from the date of award till its realization.

R. B. PATLE, Presiding Officer

नई दिल्ली, 21 अक्टूबर, 2016

**का.आ. 2372.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार एफसीआई के प्रबंधतंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, नई दिल्ली के पंचाट (संदर्भ सं. 56/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 21.10.2016 को प्राप्त हुआ था।

[सं. एल-22011/57/2010-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 21st October, 2016

**S.O. 2372.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2014) of the Central Government Industrial Tribunal-cum-Labour Court No. 1, New Delhi as shown in the Annexure, in the Industrial Dispute between the management of Food Corporation of India and their workmen, received by the Central Government on 21.10.2016.

[No. L-22011/57/2010-IR (CM-II)]

RAJENDER SINGH, Section Officer

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No. 56/2014**

The General Secretary,  
FCI Shramik Sangh, Uttarakhand,  
32, Chakrata Road, Dehradun,  
Dehradun

...Workmen

**Vs.**

1. The Chairman,  
Food Corporation of India,  
16-B, 12 Khamba Lane, New Delhi
2. The Senior Regional Manager  
FCI 5/6 Habibullah Estate,  
Hazratganj, Lucknow,  
Lucknow
3. The District Manager,  
Food Corporation of India,  
Haldwani, Nainital,  
Nainital

...Managements

**AWARD**

A reference was received from the Ministry of Labour vide letter No.L-22011/57/2010-IR(CM-II) dated 24.03.2011 under sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act), terms of which are as under:

‘Whether the action of the management of FCI in terminating the services of eight workers(list enclosed) without complying with provisions of 25F, G and H of the ID Act is legal and unjustified? To what relief they are entitled to?’

2. Briefly, it is alleged in the statement of claim that S/Shri Ruchir Sinha, Yogeshwar Kumar, Mahender Pal Singh, Rajesh Kumar, Mahender Singh, Naoni Ram, Jamuna Prasad and Kala Ram (hereinafter referred to as the workmen) were appointed as watchman/guard by the management in 1984-85 and were posted at different places, i.e. Shankar Rice Mill, Aggarwal Modern Rice Mill, Shakti Rice Mill and other godowns of FCI situated at Bilaspur, District Rampur under the management and control of Food Corporation of India Haldwani, Respondent No.3. In fact FCI has taken the aforesaid rice mills on rent and converted the same to godowns, which were under the control of management of Food Corporation of India (hereinafter referred as the management). Claimant has worked with the management for more than 2 ½ years without any break in their service and completed in a calendar year. The workmen performed their duties honestly, sincerely and with full devotion and without chance of complaint. Though the workmen were performing their duties regularly, but were not being paid wages as per the Government normal norms nor other legal benefits like PF, ESI, Dearness Allowance, TA etc. were being paid to the workmen. The workmen were being paid Rs.400.00 per month while other similarly placed workmen doing the same nature of work in the management were getting Rs.1200.00 per month, which is against the norms of equal pay for equal work. Workmen raised their voice against the management against this, as a result of which the workmen were thrown out of job. Thereafter, workmen filed writ petition before the Lucknow Bench of the Hon’ble High Court of Allahabad through Bhartiya Kranti Nigam Mazdoor Sangh, Lucknow against the management wherein interim stay was granted on 16.09.1987 directing the management not to terminate services of the workmen till further orders. Management intentionally disobeyed the directions of the High Court and terminated services of the workmen on 07.10.1987 without any notice. Workmen also informed the police but no step was taken for implementation of the order of the Hon’ble High Court. Claimant visited premises of the management on 21.10.1987 but they were told that their services were no longer required and entry of the claimant was banned. Claimant also wrote to the local SHO, Bilaspur, but in vain.

3. Thereafter, claimant moved contempt application before the Hon’ble High Court and in the meantime the counsel for the workmen expired and due to bifurcation of State of Uttar Pradesh into two States, this matter was transferred to Uttarakhand High Court for adjudication and it was decided on 25.11.2009 wherein Hon’ble High Court observed that in view of the law laid down by the Apex Court, factual aspect of the case cannot be examined and the petitioners can move the appropriate authority for relief. Incompliance of the order of the Hon’ble High Court, workmen approached the Regional Labour Commissioner, Uttarakhand and the same was transferred to Shram Mantralaya, New Delhi for proper adjudication. Though oral assurance was given by the management to the workman to retain their services, but of no use. Services of the workmen have been terminated wrongly, illegally and in an arbitrary manner. Same is also against principles of natural justice as well as provisions of Industrial Disputes Act, 1947. Workmen have been made a scapegoat as they were demanding statutory entitlements under the law. This order of termination is totally bad in law. Prayer has been finally made to direct the management to reinstate the workman with all consequential benefits.

4. Reference was contested by the management who filed reply thereto and took various preliminary objections. It was alleged on merits that the claimant herein are workers of contractors, namely Moradabad Security Company was to exercise unassailable administrative control over the security guards, who made payment to them directly. Moreover, workmen were never issued appointment letters by the management and they were engaged and deployed by the contractor. It has been admitted in para 7 of the written statement that the workmen worked for the management through the contractor but they were neither appointed by management nor they were on the pay roll of the management. Workmen were not regular workers of FCI and they were engaged as security guard through contractor on the basis of requirement. They were removed when there was no requirement. Consolidated contract amount was paid to the contractor and thereafter wages of the workman were paid by the contractor and not by FCI. These workmen were never under the direct administrative control of Food Corporation of India as such, reference is liable to be answered against the workman.

5. Workman filed replication to the written statement filed by the management and reasserted the stand taken in the statement of claim and denied the material averments contained in the written statement.

6. It is clear from order dated 10.10.2012 passed by my learned predecessor that no specific issue were framed in the above reference as it was observed that that the terms raised in the reference is enough and same is required to be answered.

7. Thereafter, workman in order to prove the claim against the management examined Shri S/Shri, Yogeshwar Kumar, Mahender Pal Singh, Rajesh Kumar, Mahender Singh, Naoni Ram, Prem Pal, Jamuna Prasad, Kala Ram and

Ruchir Sinha, whose affidavits are Ex.WW1/A and tendered in evidence documents Ex.WW1/1 to Ex.WW1/52 . Affidavits of Mahender Pal Singh, Rajesh Kumar, Mahender Singh, Naoni Ram, Prem Pal, Jamuna Prasad, Kala Ram and Ruchir Sinha are Ex.WW2/A to Ex.8/A respectively. They relied on documents Ex.WW1/1 to Ex.WW1/52. Management, in order to rebut the case of the claimant, examined Shri Mrinal, Area Manager as MW1, whose affidavit is Ex.MW1/A. He tendered in evidence documents Ex.MW1/1 to Ex.MW1/6.

8. It is clear from matrix of the case that the claimant herein have come with the specific plea that they were engaged in the year 1984-85 by the management at Aggarwal Rice Mill, Bilaspur, which was under supervision and control of the management of FCI and they have worked for more than 240 days. Admittedly. Services of the workmen herein were terminated without any show cause notice or one month salary in lieu of such notice. Plea has been taken by the management in its written statement that the workmen herein were not in the employment of FCI and they were workers of the contractor, M/s Moradabad Security Company, who exercised full administrative control over them and they were directly in the pay roll of the contractor. However, in Para 7 it stands admitted by the management that the workmen were working for the FCI management through the contractor and in Para 8 it is alleged that the workmen were not regular workers of the management and payment of wages was made directly by the contractor to the workmen. The workmen have filed a number of documents, Ex.WW1/1 to Ex.WW1/52 to prove that they were appointed as watchmen/security guard. Perusal of all these documents shows that there were other co-workers who were performing duties at Aggarwal Rice Mills at Bilaspur. In Ex.WW1/42 to 49, there is clear mention of the names of the claimants, whose rank is mentioned as Guard. Similarly in Ex.WW1/1 to Ex.WW1/11 again the names of the claimants have been mentioned in the extract of attendance. It further shows that the workman were working for 8 hours. Similarly in the other documents also, name of the workmen is mentioned. A careful appraisal of Ex.WW1/4 to Ex.WW1/49 that the workman were in the employment of FCI at Bilaspur. It is also mentioned that Shankar Rice Mill, Aggarwal Modern Rice Mill, Shakti Rice Mill and other godowns of FCI situated at Bilaspur, District Rampur were storing depots and they were engaged as watchman/guard.

9. Since the management has come in the present case with specific plea that the workmen herein were not directly in the employment of FCI and they were engaged by Moradabad Security Company to provide security guards on contract basis to FCI, who was making payment to the above company/contractor, who was further making payments to the workmen. Shri Mrinal, Manager, while appearing as MW1 tried to prove the stand taken by the management in the written statement. However, careful examination of his statement would show that the management of FCI have failed to prove the stand taken in its pleadings. This witness is not aware whether any letter of request was sent to the contractor to provide security guard/watchman at the given depots. No such letter has been filed or proved by the management so as to prove its stand. There is also no list filed as to the number of persons deployed by the said security agency for the management. Further, there is no document on the file to show that Moradabad Security Company was asked to provide security personnel to the management. He has further admitted that letter Ex.MW1/1 is regarding misbehavior of Malkhan Singh and letter Ex.MW1/2 does not reflect payment of wages to the workmen. Management of FCI was directly making payments to the security company. However, there is no letter or document filed by the management so as to show that during the relevant period from 1984 to 1987 how much payment was made by FCI to the above security agency as payment of wages which the contractor was required to disburse to the workman. This witness is also not aware whether such record is available in the office of the management or not. He is not even aware whether Rs.400.00 was being paid to each workman. He has specifically admitted that normally management maintains record in respect of permanent employees and no record in respect of daily wage employees engaged through Moradabad Security Company is available in the office of the management. Only attendance sheet is kept in the office. He has denied the suggestion that the workman herein was an employee of the management or not. He has feigned ignorance regarding order passed by the Allahabad High Court. He is no aware whether any amount towards provident fund was being paid to the workmen. He has made a vital submission that the documents Ex.WW1/1 to Ex.WW1/52 is correct. He further admitted that the workmen herein worked with the management upto 1987. Thus, overall examination of the statement of this witness clearly shows that the claimant herein have worked with the management till 1987, which is also the case of the workmen herein as per the pleadings contained in their statement of claim.

10. In the present case, it was incumbent upon the management of FCI to have filed contract documents vide which the contractor regarding engagement of the contract workers, i.e. Workmen herein was given to the Moradabad Security Company. In Section 7 of the Contract Labour Regulation & Abolition Act, 1970, every principal employer, i.e. FCI in the present case, is required to register itself by making an application to the Registering Officer in the prescribed manner for registration of the establishment. Before awarding of contract to any private contractor, it is required under Section 13 of the said CLRA Act that such contractor has to obtain license before executing any work through contract labour in the manner prescribed under the law. Before grant of such licence, the Licensing Officer may make such investigation in respect of application filed by the contractor and if any violation of the terms and conditions of the contract is made out, under Section 14, the Licencing Officer has powers to suspend or revoke the license granted in favour of such contractor. In the case in hand, management has not taken pains either to file copy of

registration of its establishment in terms of Section 7 of the Act and copy of the license granted in favour of the private agency, i.e Moradabad Moradabad Security Company, whose services were hired by the management of FCI as per the stand taken in the pleadings. Since no such document has been filed by the management of FCI, only reasonable inference that can be drawn is that the so called contractor was not at all licensed. There is no documentary evidence filed so as to show what were the payments being made to the contractor for disbursing the said amounts to the workers employed by the contractor. In such a situation, it can be claimed that the workmen herein were not in fact working under the supervision of the contractor and they were working under the direct management of FCI. It is pertinent to mention here that under Section 21 of the CLRA Act, 1970, it is the duty of every principal employer to nominate a representative who is required to be present at the time of disbursement of wages by the contractor. Further, the principal employer is also required to take all steps for the welfare of the workers regarding which there are various provisions under the Act as well as the rules. Management has also not examined any such contractor so as to legally prove its stand that during the year 1984-85 till 1987, the said contractor has deployed the workmen herein as watchman/guard and payments were also being made to such workmen directly by the contractors. In the absence of any such evidence, both oral as well as documentary, this Tribunal is of the considered opinion that the management has badly failed to prove its case, as required under the law.

11. There is nothing on record to suggest that an notice before terminating services of the workmen herein was served upon them as required under Section 25F of the Act, as there is no evidence that one month notice or salary in lieu of such notice was paid to the workmen herein. Thus, examining the matter on the principles of natural justice as well as provisions of the law, it is held that the workmen herein were in the employment of the management of FCI and termination of their services is neither legal nor justified under the law.

12. Now, the residual question is as to what relief the workmen herein are entitled to. It was urged on behalf of the workmen that they are unemployed since the time of their termination, as such, workman should be reinstated with full back wages whereas the management has strongly urged that there is no question of reinstatement at such a belated stage and FCI is now not employing such casual or daily wage workers, which was the practice earlier.. As such, at the most, they can be granted reasonable retrenchment compensation. Hon'ble Apex Court in the case of BSNL Vs. Bhurumal (2014 AIR SCW 528), while dealing with the question as to whether reinstatement with back wages should be granted as a matter of course and it was held as under:

'The ordinary principle of grant of reinstatement with full back wages, when the termination is found to be illegal is not applied mechanically in all cases. While that may be a position where services of a regular/permanent workman are terminated illegally and/or malafide and/or by way of victimization, unfair labour practice etc. However, when it comes to the case of termination of a daily wage worker and where the termination is found illegal because of procedural defect, namely in violation of Section 25-F reinstatement with back wages is not automatic and instead the workman should be given monetary compensation which will meet the ends of justice. Rationale for shifting in this direction is obvious. Reasons for denying the relief of reinstatement in such cases are obvious. It is trite law that when the termination is found to be illegal because of non-payment of retrenchment compensation and notice pay as mandatorily required under Section 25-F, even after reinstatement, it is always open to the management to terminate the services of that employee by paying him the retrenchment compensation. Since such a workman was working on daily wage basis and even after he is reinstated, he has no right to seek regularization.'

13. Same view has been taken by the Hon'ble Apex Court in the case of MP Administration vs Tribhuban, Jagbir Singh vs HP Agricultural marketing (2009 (15) SCC 327), Nagar Mahapalika vs State of U.P. (Civil appeal No.2411 of 2006 decided on 02.05.2006) and Madhya Pradesh Administration Vs. Tribhuban (Civil Appeal No.1817 of 2007 decided on 05.04.2007). I have gone through the ratio of law enunciated in the above authorities and perusal of the same clearly suggests that reinstatement of a workman whose services have been terminated wrongly and illegally is not to be done in a routine manner and as a matter of course by Tribunal. The Tribunal is required to take a number of factors into consideration, such as, whether the post in question from which the workman was terminated was a sanctioned post or selection was made in accordance with rules and regulations by inviting applications, whether there is delay in making reference to the Tribunal by the workman was engaged as a daily wagger etc. Since in the case in hand, there is no sanctioned posts of such casual or daily wage workers and there is considerable lapse of time after 1987, as such at this belated stage reinstatement cannot be granted, as such, this Tribunal is of the opinion that it is in the larger interest of justice that a reasonable amount of compensation is paid to the workmen instead of reinstating them. Hence, this Tribunal is of the opinion that having regard to the overall circumstances of the case, including length of service etc., an amount of Rs.1,50,000.00 appears to be just and reasonable, which is awarded to the workman. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

October 5, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2373.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 100/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-30012/12/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2373.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 100/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-30012/12/2014-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS,PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT/LOK ADALAT, KANPUR

#### Industrial Dispute No. 100 of 2014

#### Between :

Sri Shiv Shanker son of Sri Mohar Singh,  
Village Nagla Shivaji,  
Post Krishna Nagar,  
District Mathura, U.P.

#### And

The Executive Director,  
Indian Oil Corp Ltd,  
Mathura Refinery,  
Mathura-281005

#### AWARD

1. Central Government, Mol, vide notification No.L-30012/12/2014-IR (M) dated 28.08.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Indian Oil Corporation Ltd Mathura Refinery, Mathura, M/s Gogi Enterprises, Mathura in terminating the services of Sri Shiv Shanker son of Sh Mohar Singh workman w.e.f. August 2011 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal cum Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 07.10.2016, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2374.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 102/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-30012/14/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2374.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 102/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-30012/14/2014-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT/LOK ADALAT, KANPUR

#### Industrial Dispute No. 102 of 2014

##### Between :

Sri Nand Kishore son of Sri Tej Pal,  
Village and Post Baad,  
District Agra, U.P.

##### And

The Executive Director,  
Indian Oil Corp Ltd,  
Mathura Refinery,  
Mathura-281005

#### AWARD

1. Central Government, Mol, vide notification No.L-30012/14/2014-IR (M) dated 27.08.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Indian Oil Corporation Ltd Mathura Refinery, Mathura, M/s Pooja Contractor, Mathura, in terminating the services of Sri Nand Kishore son of Sh Tej Pal workman w.e.f. April 2010 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal-cum-Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 07.10.2016, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2375.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 103/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-30012/13/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2375.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 103/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-30012/13/2014-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT/LOK ADALAT, KANPUR

#### Industrial Dispute No. 103 of 2014

#### Between :

Sri Heera Singh son of Sri Gopal Singh,  
Village and Post Baad,  
District Mathura, U.P.

#### And

The Executive Director,  
Indian Oil Corp Ltd,  
Mathura Refinery,  
Mathura-281005

#### AWARD

1. Central Government, Mol, vide notification No.L-30012/13/2014-IR (M) dated 28.08.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Indian Oil Corporation Ltd Mathura Refinery, Mathura, M/s. Manish Contractor, in terminating the services of Sri Heera Singh son of Sh Gopal Singh workman w.e.f. August 2011 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal-cum-Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 07.10.2016, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2376.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 121/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-30012/25/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2376.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 121/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-30012/25/2014-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT/LOK ADALAT, KANPUR

#### Industrial Dispute No. 121 of 2014

#### Between :

Sri Chhagan Lal Singh son of Sri Kundan Singh,  
Village Pacca Koyala Post Baad,  
District Mathura

#### And

The Executive Director,  
Indian Oil Corp Ltd,  
Mathura Refinery,  
Mathura-281005

#### AWARD

1. Central Government, Mol, vide notification No. L-30012/25/2014-IR (M) dated 29.10.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Indian Oil Corporation Ltd. Mathura Refinery, Mathura, M/s. Balaji Services, New Delhi, in terminating the services of Sri Chhagan Lal son of Sh Kundan Singh workman w.e.f. April 2010 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal-cum-Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 07.10.2016, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2377.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 123/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-30012/27/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2377.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 123/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-30012/27/2014-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT/LOK ADALAT, KANPUR

#### Industrial Dispute No. 123 of 2014

#### Between :

Sri Satish Chand son of Sri Narpat Singh,  
Village Dharampura,  
Post Dhana Jeevna,  
District Mathura

#### And

The Executive Director,  
Indian Oil Corp Ltd,  
Mathura Refinery,  
Mathura-281005

#### AWARD

1. Central Government, Mol, vide notification No.L-30012/27/2014-IR (M) dated 29.10.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Indian Oil Corporation Ltd. Mathura Refinery, Mathura, M/s. Balaji Services, New Delhi, in terminating the services of Sri Satish Chand son of Sh. Narpat Singh workman w.e.f. April 2010 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal-cum-Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 07.10.2016, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2378.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 124/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-30012/28/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2378.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 124/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-30012/28/2014-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

#### BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOR COURT/LOK ADALAT, KANPUR

#### Industrial Dispute No. 124 of 2014

##### Between :

Sri Omkar Singh son of Sri Bankey Lal,  
Village and Post Ral,  
District Mathura, U.P.

##### And

The Executive Director,  
Indian Oil Corp Ltd,  
Mathura Refinery,  
Mathura-281005

#### AWARD

1. Central Government, Mol, vide notification No.L-30012/28/2014-IR (M) dated 29.10.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Indian Oil Corporation Ltd. Mathura Refinery, Mathura, M/s. G.S. Travels, Mathura, in terminating the services of Sri Omkar Singh son of Sh Bankey Lal workman w.e.f. April, 2010 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal-cum-Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 07.10.2016, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2379.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स दी ओरिएण्टल इश्यारेंस कंपनी लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 81/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-17011/2/2013-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2379.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 81/2013) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. The Oriental Insurance Company Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-17011/2/2013-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No. 81/2013**

Shri Anurag Verma,  
C/o General Insurance Employees Association (North Zone)  
15-16, Scindhia House, K.G. Marg,  
New Delhi-110 001

...Workman

#### **Versus**

The Chairman and Managing Director,  
The Oriental Insurance Company Ltd.  
Regional Office – 1, 10<sup>th</sup> Floor,  
Hansalaya Building, Barakhamba Road,  
New Delhi-110 010

...Management

#### **AWARD**

Background facts giving rise to the filing of the present case are that a reference was received under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act) by this Tribunal to decide the reference, terms of which are as under:

‘Whether the action of the management of Oriental Insurance Company Ltd. New Delhi in imposing penalty of reduction in basic pay to the lowest stage in the time scale as applicable to Assistant (T), i.e. reduction of 17 increments and his suspension period not counted for service of workman, Shri Anurag Verma, is legal and justified?’

2. It is clear from the statement of claim that Shri Anurag Verma, the workman herein joined the Oriental Insurance Company, i.e. the management on 07.04.1995 at Beawar branch, Rajasthan. In the year 1999, workman was posted in Vigilance Cell, Regional Office I, New Delhi and thereafter in the year 2000, he was posted in Accounts Department at Regional Office I, 88 Janpath, New Delhi. It is also alleged that throughout his career, workman was hardworking, dedicated and sincere in his professional duties. In 17 years of his career, he has not had even a single complaint regarding work or his conduct and behavior with his colleagues.

3. In the year 2005, workman was posted as Assistant (T) Eng. NRO I and his basic pay was Rs.6245 with gross salary of Rs.10,273.00. There were also other staff working in the office and one of the staff member was Shri Ashok Kumar, who was posted as sub staff in the office. Shri Ashok Kumar was an alcoholic and a drug addict, whose unexpected behavioral tantrums was being unbearable to the other staff members. He was living life of debauchery and had complete disregard for his fellow staff members. On several occasions, he was found under the influence of

alcohol and narcotic drugs during office hours. He was picking un-required altercation with his fellow staff members and he has virtually become unbearable nuisance for the rest of the staff members. There were written complaints from other workers against him.

4. It is the case of the workman that on 23.03.2005, he reached office in the morning and during the day time he also visited another branch of his office situated at Jeevan Bharti Building, New Delhi. When he came back, he was shocked to see his glass table top shattered to pieces. Broken pieces of glass were also spread on the table, making it difficult to sit and walk. When enquiry was made, workman was apprised that a serious altercation had taken place between Ashok Kumar and a lady officer, Ms.Parvinder Kaur, AAO. Shri Ashok Kumar went to the extent of physically manhandling the fellow lady staff member and even threw a bottle of water at her. He also hurled filthy abuses upon the other members of staff. In the altercation, table top of the workman was also broken. Thereafter, Shri Ashok Kumar left the office premises immediately on that day and did not return back for eight days. No leave was sanctioned to him.

5. A formal complaint was lodged by Ms.Parminder Kaur, AAO and six other officer members regarding the above incident and copy of the said complaint is Annexure W1-2.

6. There are also averments in the statement of claim that on 01.04.2005, workman herein called Shri Ashok Kumar to enquire about the incident of 23.03.2005 which had taken place in the absence of the workman herein and regarding breakage of glass top etc. However, Shri Ashok Kumar reacted in a fit of anger and started abusing the workman using unsavory remarks. He was advised by the workman to behave properly. Upon this, Shri Ashok Kumar became very violent held the workman from collar of his shirt, as a result of which a scuffle started between the two. Shri Ashok Kumar with a view to escape culpability, on the advice of SC/ST Union made a complaint against the workman, which is W-3. Thereafter, management conducted a preliminary inquiry into the complaint of Ms.Parvinder Kaur and very team took notice of the complaint of Shri Ashok Kumar and conducted enquiry into the aforesaid incident at the back of the workman. The said team had no authority to hold a preliminary inquiry into the alleged incident of misconduct against the workman. Members of the said inquiry committee prepared a complaint against the workman and directed employees of Class III and IV with undue influence, to sign the said complaint. Explanation of the workman was sought by the Inquiry Committee and the workman explained the circumstances which led to the above incident. However, the fact finding committee held the workman responsible without examining the witness Ms.Beena and others who were eye witnesses to the incident.

7. Workman had also made a complaint against Shri Ashok Kumar. However, no action was taken by the management on the said complaint, copy of which is W-6. Later on, workman was placed under suspension in the same day.

8. There are also allegations in Para 14 of the statement of claim that the workman was charge sheeted on 19.04.2005. However, he was not supplied copy of the complaint and statement of the witnesses so as to prepare his defence. When workman had asked for the same he was told that as per Conduct, Disciplinary and Appeal Rules, he was not entitled to get copy of the same. Later on, during conduct of enquiry, documents were supplied to him. Workman did not get adequate time to prepare his defence. Article of Charges and Imputation of lapses did not mention which un-parliamentary words were used by the workman against Shri Ashok Kumar. Workman replied the said charge sheet vide letter dated 16.05.2005. Under the pressure of rival union of the complainant, enquiry was initiated against the workman and the same continued for three years wherein six witnesses were examined. Neither the complainant was examined nor the complaint exhibited. On 03.02.2006 at the time of start of the domestic enquiry, workman was supplied with copy of the complaint and statements of witness to be examined against the workman. There was no adequate time to prepare defence by the workman. Workman could not join the enquiry proceedings on 03.08.2006 due to illness of one of his relatives. However, statement of witness were still recorded. Enquiry Officer on 08.09.2006 allowed the Presenting officer to cross examine the witness though statement of defence of the workman was yet to be recorded. Presenting Officer sought opinion of the witness as to who was guilty in their opinion instead of seeking corroboration of the incident. Thereafter, the Enquiry officer submitted his report on 24.02.2009 and concluded that the workman herein is guilty of misconduct and charges against the workman was found to be proved. The Disciplinary Authority on 30.07.2009 on the basis of findings of the Enquiry Officer and representation of the workman imposed penalty of 'reduction of basic pay to the lowest state in the time scale of pay as applicable to the workman' Workman at that time was getting basic pay of Rs.12,003 and total salary was Rs.19,917.00. He was reverted to the basic salary of Rs.4,995. Thereafter, workman filed an appeal before the Appellate Authority, which was also rejected. Workman thereafter submitted memorandum dated 25.03.2010 to the Chairman and Managing Director but no action was taken on it. Thereafter, workman approached the union and made a representation through the union to the management on 19.12.2000 who espoused the cause of the workman.

9. Finally the workman challenged the validity of the enquiry and charge sheet being vague and unintelligible, workman not being supplied with the documents at the time of service of charge sheet etc. and enquiry being conducted

in utter violation of principles of natural justice. Finally, workman has prayed that the said enquiry be set aside and hold the workman entitled to remain in service with back wages. Statement of claim is supported by affidavit.

10. Management has contested the averments made in the statement of claim by filing written statement taking preliminary objections inter alia non maintainability, jurisdiction etc. On merits, management denied most of the averments made by the workman herein. It is alleged that the workman has cast aspersions on the character of a person who has expired years ago. Workman without any authority enquired into the problem with the complainant, Shri Ashok Kumar and picked up quarrel with him when Ashok Kumar was going to sign the attendance register. It is denied that the management was working under pressure of any union. Action taken by the management is just, fair and proper and enquiry has been conducted in accordance with principles of natural justice. Misconduct of the workman was display of disorderly and unruly behavior subversive of office discipline and unbecoming of a public servant. Finally it has been averred that the workman is not entitled for any kind of relief.

11. On the basis of pleadings of the parties, vide order dated 23.08.2013 following issues were framed:

- i. Whether claimant is clothed with status of a workman within the meaning of section 2(s) of the Industrial Disputes Act, 1947?
- ii. Whether enquiry conducted by the management was just, fair and proper?
- iii. Whether punishment awarded to the claimant commensurate to his misconduct?
- iv. As in terms of reference.

12. Issue No.1 and 2 were treated as preliminary issue and the parties were asked to adduce evidence on the above issues.

13. I have heard Shri H.S. Thukral, learned A/R for the claimant and Shri Rahul Ranjan Verma, learned A/R for the management.

14. At the outset, the management herein has contended that Industrial Disputes Act is not applicable upon them. As such, this Tribunal has no jurisdiction to adjudicate the case. No doubt, Hon'ble Apex Court in *Kishan Prakash Sharma and Others vs. Union of India & Others* (2001 (5) SCC 212) has discussed provisions of General Insurance Business (nationalized in 1972) and it was in the context of the provisions of the Act that reference was also made to provisions of Section 16 and 17A of the Act. Management has heavily relied on para 27 of the above judgement, which in fact deals with revision of pay-scales, allowances etc. for betterment of the employees. No doubt, powers have been conferred on the Central Government to frame any scheme for betterment of employees but observation in the above para only relates to exclusion of the Industrial Disputes Act so far as question of bipartite settlement is concerned. It nowhere says that provisions of Industrial Disputes Act, in entirety, would not be applicable on the management. Therefore, in my humble opinion, the above judgement does not exclude jurisdiction of this Tribunal so as to decide the reference/fate of the domestic enquiry.

#### **Issue No.1**

15. So far as the question of as to whether workman herein falls within the definition of workman as defined in section 2(s) of the Act is concerned, no specific arguments were advanced on behalf of the management. It is clear from pleadings of the parties that the workman herein was initially the workman joined as Assistant in the year 1995. There is no evidence on record to show that he was performing duties of supervisory or managerial in nature. Simply because salary of the workman is more than Rs.10,000.00 per month would not take such workman outside the ambit and scope of 'workman' as defined under the Section.

16. It is well settled that in order to find out as to whether a person was performing the work of supervisory or managerial in nature, the dominant purpose of the employment of the person concerned should be taken into consideration and certain additional duties performed by him should be ignored while determining the status and character of the person. Since the objection regarding the status of the workman being employed in supervisory capacity has been taken by the management as such the onus to prove this fact is upon the management. It was imperative for the management to adduce cogent evidence to prove the specific nature of duty regarding supervisory or managerial work. In order to find out whether the workman herein falls within the definition of workman as defined in section 2(s) of the Act. It would be expedient to have a glance on definition of the term 'workman', contained in section 2(s) of the Act. For sake of convenience, definition of term 'workman' is reproduced thus:

"2(s) Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purpose of any proceeding under this Act in relation to an industrial dispute includes any such person who has been dismissed, discharged or retrenched in connection

with, or as a consequence of that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

- (i) Who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act 1950(46 of 1950) or the Navy Act, 1957 (62 of 1957), or
- (ii) Who is employed in the police service or as an officer or other employee of a prison , or
- (iii) Who is, employed mainly in a managerial or administrative capacity, or
- (iv) Who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature”.

17. The first part of the definition gives statutory meaning of the term ‘workman’. This part of the definition determines a workman by reference to a person (including an apprentice) employed in an “industry” to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward. This part determines what a “workman” means. The second part is designed to include something more in what the term primarily denotes. By this part of the definition, person (i) who have been dismissed, discharged or retrenched in connection with an industrial dispute, or (ii) whose dismissal, discharge or retrenchment has lead to an industrial dispute, for the purpose of any proceeding under the Act in relation to such industrial dispute, have been included in the definition of “workman”. This part gives extended connotation to the expression “workman”. The third part specifically excluded the categories of persons specified in clauses (i) to (iv) of this sub section. The third part connotes that even if a person satisfies the requirements of any of the first two parts but if he falls in any of the four categories in the third part, he shall be excluded from the definition of ‘workman’. Not only the persons who are actually employed in an industry but also those who have been discharged, dismissed or retrenched in connection with or as a consequence of an industrial dispute, and whose dismissal, discharge or retrenchment has lead to that dispute, would fall within the ambit of the definition. In other words, the second category of persons included in the definition would fall in the ambit of the definition, only for the purpose of any proceedings under the Act in relation to an industrial dispute and for no other purposes. Therefore, date of reference is relevant and in case a person falls within the definition of workman on that day, the Tribunal would be vested with jurisdiction to entertain it and the jurisdiction would not cease merely because subsequently the workman ceases to be workman.

18. For an employee in an industry to be a workman under this definition, it is manifest hat he must be employed to do skilled or unskilled manual work, supervisory work, technical work or clerical work. If the work done by an employee is not of such a nature, he would not be a workman. The specification of the four types of work obviously is intended to law down that an employee is to become a workman only if he is employed to do work of one of those types, while there may be employees who, not doing any such work, would be out of the scope of the word ‘workman’, without having resort to the exceptions. It cannot be held that every employee of an industry was to be a workman except those mentioned in the four exceptions as in the case these four classifications need not have been mentioned in the definition and a workman could have been defined as a person employed in an industry except in cases where he was covered by one of the exceptions.

19. In cases where an employee is employed to do purely skilled or unskilled manual work, or supervisory work or technical work or clerical work there would be no difficulty in holding him to be a workman under the appropriate classification. Frequently, however, an employee is required to do more than one kind of work. In such cases, it would be necessary to determine under which classification he will fall for the purpose of finding out whether he does not go out of the definition of ‘workman’ under the exceptions. The principle is now well settled that, for this purpose, a workman must be held to be employed to do that work which is the main work he is required to do even though he may incidentally doing other type of work.

20. In view of the legal position discussed above, it cannot be held that the workman herein does not fall within the ambit and scope of the definition of ‘workman’ as defined under Section 2(s) of the Act. Hence the issue is decided accordingly.

## Issue No.2

21. The claimant, in support of his case to assail validity of the enquiry, examined himself as WW1 and tendered in evidence documents Ex.WW1/1 to Ex.WW1/46. Management in order to rebut the case of the workman and to prove validity of the enquiry examined Shri P.K. Gupta, Sub Divisional Manager, as MW1 and his affidavit is Ex.MW1/A., which is on the same lines as the stand taken in the written statement. It is pertinent to note that Shri P.K. Gupta is not a witness to the above incident regarding which the workman herein has been charge sheet nor he is aware of another incident which took place with Shri Ashok Kumar, the complainant or any complaint being made by other staff members against Ashok Kumar as is clear from his statement. He has clarified that he was present in the office on the

day of the incident but he is not a witness to the incident as he was not near to the place of incident. He came to know of the incident half an hour later. Admittedly, Shri Gupta was appointed as Enquiry officer and Shri Balwant Singh conducted preliminary enquiry alongwith two other officials. He admitted that direction was given by him by him to supply documents to the workman and enquiry in the present case started on 20.01.2006. He further made a vital admission that the complainant was neither examined in the preliminary inquiry by the management nor during the regular enquiry which is subject matter of challenge before this Tribunal. To a court question he has replied that he has supplied all the requested documents to the workman on 02.02.2006. It is clear from the charge sheet Ex.WW1/10 that documents were not supplied to the workman at the time of serving of charge sheet. It is also clear from perusal of Ex.WW1/10 that the Disciplinary Authority has Annexure I and II with the Article of Charges alongwith list of witnesses and documents vide which the above Article of Charges is proposed to be sustained. Workman was given 15 days time to file reply to the charge sheet, i.e. either admit or deny the Article of Charges specifically.

22. During the course of arguments, learned authorized representative for the workman strenuously urged that non-supply of the documents alongwith the charge sheet has caused serious prejudice to the workman, who was not in a position even to prepare reply to the above charge sheet properly and these documents were supplied much later when workman insisted for the same during the course of enquiry. Learned authorized representative for the workman also urged that non-examination of the claimant or persons who were witness to the incident as mentioned in the charge sheet is also fatal as there is no cogent and reliable evidence on record to prove that the claimant has misbehaved with Shri Ashok Kumar.

23. Reply dated 16.05.2005 Ex.WW1/13 filed by the workmen in the present case to the domestic enquiry clearly shows that the workman has denied the allegations leveled against him in the charge sheet regarding the incident on 01.04.2005. It is pertinent to note that the workman has mentioned the name of Ms.Parvinder Kaur, AAO, Accounts Department, who had told the workman herein that Shri Ashok Kumar has broken the glass top of his table on 23.03.2005. It was on account of this reason that on 01.04.2005 he questioned Shri Ashok Kumar, who heroically said 'I have done it. You can do whatever you like'. Order Ex.WW1/14 also shows that on 30.06.2005, the workman herein was placed under suspension with effect from 01.04.2005 in connection with usage of unparliamentary language against Shri Ashok Kumar, sub-staff in Legal Department. Further letter Ex.WW1/15 shows that Shri P.K. Gupta, MW1 was appointed as Enquiry Officer vide letter dated 13.01.2006 and Shri S.S. Jaggi, AAO was appointed as Presenting Officer in the above departmental enquiry, as is clear from order Ex.WW1/16. Proceedings conducted on the above date also shows that the workman is stated to be not present till evening. On being enquired, it was found that notice of preliminary inquiry has not been served on the workman. Workman has also named Shir Lokesh Dewan as his defence assistant, as is clear from letter Ex.WW1/19.

24. It is clear from the enquiry proceedings as well as evidence adduced before this Tribunal and the domestic enquiry that Enquiry Officer, Shri P.K. Gupta, MW1 primarily based his findings on the preliminary report, i.e. findings of enquiry conducted prior to the present domestic enquiry by the management. Further, record also shows that no action was taken by the management on the complaint filed by the workman against Shri Ashok Kumar. Not only this, even this Ms.Parvinder Kaur had also lodged complaint against the behavior of Shri Ashok Kumar and there is nothing on record to show that the management has conducted any formal enquiry regarding complaint filed by the workman herein or Ms.Parvinder Kaur, who were working at the relevant time in the same office.

25. It was strongly contended on behalf of the workman that enquiry has not been conducted in a fair manner to take action on the complaint filed by Shri Ashok Kumar, whereas no action has been taken on the complaint of the workman herein and other employees. Learned A/R for the workman also pointed various anomalies in recording of evidence of the witnesses by Shri P.K. Gupta, MW1, who was the Enquiry Officer. It was also pointed out that when charge sheet was issued to the workman herein, there was no list of documents as well as names of witness to be examined by the management in support of the allegations contained in the charge sheet. Learned A/R for the claimant also relied upon various judgements in support of his submissions and I would be discussing ratio of the same while drawing my conclusions.

26. Per contra, Shri Rahul Ranjan Verma appearing on behalf of the management urged that conduct of the workman herein was very disorderly on the day of the incident. He has hurled abuses and misbehaved with Shri Ashok Kumar, sub staff posted at Legal Department on the day of the incident, i.e. 01.04.2005. Learned A/R for the management, in all fairness, admitted that manner of recording of evidence was not strictly as per established practice as well as requirement of law. But, no prejudice has been caused to the workman by such mode of examination. Workman, in submission of the learned A/R for the management was afforded ample opportunity to rebut the case. Finally, learned A/R for the management urged that findings rendered in the Enquiry Report, Ex.MW1/1 is based upon proper appreciation of evidence on record; as such, it does not require any indulgence by this Tribunal. Learned A/R for the management also relied upon the case of Muriadih colliery of Bharat Colliery Coal Ltd. Vs. Bihar Colliery Kamgar Union (2005 3 SCC 331) wherein it has been held that act of violence on the part of an employee is considered to be an act of gross misconduct calling for stringent punishment.

27. Before I proceed to consider the comparative merits of the submissions raised on behalf of either of the parties, it is necessary to mention the allegations contained in the charge sheet dated 19.04.2005 Ex.MW1/1 served on the workman herein, which is as under:

**Article of Charge**

On the morning of April 1, 2005, he caught hold of Shri Ashok Kumar, Sub-staff, RO-1, 88 Janpath, New Delhi and hit him with his fist and beat him with kicks and vitiated office atmosphere.

**Statement of Imputation of Misconduct**

On the morning of April 1, 2005, he confronted Shri Ashok Kumar, Sub-staff posted in Legal Department at RO-1, 88 Janpath, New Delhi, when the latter was entering the office from the rear side door and called him. Shri Ashok Kumar, sub-staff refused saying that he would come to him (Shri Anurag Verma) after signing the muster. Upon hearing this, without any provocation, Shri Anurag Verma got furious and used unparliamentary language against him and hit Shri Ashok Kumar with his fist and beat him with kicks in front of other staff. In this incident, Shri Ashok Kumar suffered minor injuries on his waist and his clothes got torn. Further, his acts vitiated the office atmosphere.

28. There is list of witness alongwith names of six witnesses as well as list of documents. However, it is clear from the record of the domestic enquiry that the workman was not supplied with list of documents as well as list of witnesses when the above charge sheet was served. It is further clear from the reply filed by the workman herein on 16.05.2005 that he has denied the allegations contained in the charge sheet. It is pertinent to note here that the workman has specifically referred to Ms.Parvinder Kaur, AAO, Accounts Department, who had told the workman that the glass top of his table was broken by Shri Ashok Kumar on 23.03.2005 and that on 01.04.2005, the workman questioned Shri Ashok Kumar and thereafter the incident ensued.

29. During the conduct of the domestic enquiry, complainant Shri Ashok Kumar was not at all examined by the management in support of the allegations contained in his complaint nor any reason has been assigned by the Presenting Officer or the Enquiry Officer in his report for non-examination of the complainant. Management examined four other witnesses, S/Shri Chander Pal, Ashok Kumar, Madan Prasad, Basant Kathane, Zile Singh and Ramesh Chand. It is clear from overall examination of mode or recording of statements of the witnesses that neither the Enquiry Officer nor the Presenting Officer Shri Jaggi was at all conversant with the established norms of recording statement of material witnesses in a narrative form. An overall examination of the statement of the various witnesses would show that answers have been put in the mouth of the witnesses and all the material questions have been asked in a leading form. Law is fairly settled that examination in chief of a witness is to be in narrative form and normally leading questions cannot be asked by the party, who has called such witnesses in the examination in chief of such witnesses. For example, in examination in chief of Shri Chander Pal, leading questions were put in the following manner:

Presenting Officer : Did Anurag hit Ashok on 01.04.2005?  
 Shri Chander Pal : Yes.  
 Presenting Officer : Was Ashok at fault at the time of the incidence?  
 Shri Chander Pal : No, not in the particular incidence and I am unaware otherwise

30. It was thereafter that cross examination of the witness was conducted by the workman herein. It is necessary to mention here that Shri Chander Prakash has admitted in his cross examination that he came to know regarding misbehavior of Shri Ashok Kumar with Ms.Parvinder Kaur, AAO and at that time he was under the influence of drugs. He came to know about the incident on the next day. To one of the questions, as under, reply given by Shri Chander Prakash, witness is material and the same is reproduced:

CE Ashok picked up tube light and shoe to hit whom?  
 CP Naturally, to hit Anurag.  
 CE Did Anurag has anything in his hands?  
 CP No, there was nothing in his hands.

31. The presenting officer during the course of cross examination was referring to the statements given by these witnesses at the time of fact finding enquiry. He has specifically denied writing of any such statement during the course of preliminary inquiry as he could not write in English. Thus, he has clarified that even his statement before the Enquiry Officer is in fact not his statement.

32. Management, during domestic enquiry, examined one Shri Ashok Kumar Sub staff and the questions put to him by the Presenting Officer are in leading form and his opinion has been taken as to who was at fault in the above incident and he has told that Shri Anurag was at fault. It is further clear from his cross examination that he was not aware of the date of the incident nor clear about its timing. He has also averred that Shri Ashok Kumar was in the habit of taking narcotic drugs and remained under the influence of drugs. He has further admitted that he came to know that there was an altercation between Ms.Parminder Kaur and Shri Ashok Kumar. There is nothing in the statement of this witness regarding genesis of the incident.

33. The other witness examined during the domestic enquiry was Shri Madan Prasad, PW3 and to a question put to him in his examination in chief, which was also in a leading form, i.e. 'Did you see Ashok hitting Ashok in the morning of 01.04.20015?' and the answer was 'Yes'. He has no idea regarding the date and time when the incident took place and at the time of the incident he was sitting with his boss Shri Ajay Gupta in his cabin. This clearly shows that this witness has also not seen the incident nor the manner in which the incident took place. He further clarified that there was shouting from both sides and both Shri Anurag and Shri Ashok were using bad words and he reached at the end of the incident. An overall examination of statement of this witness would show that there are a lot of inconsistencies in his statement.

34. Lastly, management examined Shri Zile Singh as PW5 whose statement is also recorded in the same manner. In fact, statement of the witnesses were pre-recorded and the same were not recorded during the course of domestic enquiry and he was simply asked whether he agrees with his statement of 02.04.2005 given before the Fact Finding committee, to which his reply was 'Yes'.

35. The Tribunal is constrained to observe that the manner in which statement of the various witnesses were recorded by the Enquiry Officer during the course of domestic enquiry leaves much to be desired. It is clear that questions were put to the witnesses in leading form so as to seek answers in 'Yes' or 'No', which is not legally permissible. This is not in respect of one witness, but all the witnesses have been subject to examination in the same manner. It is really strange that neither the Presenting Officer nor the Enquiry Officer has tried to ascertain the manner in which the statement of the witnesses is required to be recorded. Not only this, the Presenting Officer, Shri S.S. Jaggi has already brought the pre-recorded statement recorded during the course of fact finding enquiry and put the same to the witnesses, which is highly illegal and not permissible under the law. The mode and manner of recording statement of witnesses by the Enquiry Officer is clearly suggestive of the fact that he has conducted the enquiry in a pre-conceived manner so as to ensure that the workman is held guilty. This approach of the Enquiry Officer is totally against principles of natural justice and the same is not warranted under the law.

36. In fact, proceedings conducted during the course of fact finding enquiry or the preliminary inquiry regarding the above incident has completely swayed the mind of the Enquiry Officer as well as the Presenting Officer. It is now well settled law that evidence recorded in a preliminary inquiry cannot be used in a departmental enquiry as substantive evidence in which no opportunity of cross examination is available to the delinquent employee. Purpose of holding a preliminary inquiry is only to take a prima facie view as to whether there could be some substance in the allegations made against the employee, which may warrant regular enquiry. Evidence recorded in a preliminary enquiry cannot be used in a regular enquiry as the delinquent employee is not associated with it nor an opportunity to cross examine the witness is available to him during conduct of the preliminary inquiry. Use of such evidence would be in violation of principles of natural justice. I find support to the above from the case of *Nirmala J Jhala Vs. State of Gujarat* (2013) 4 SCC 301)

37. There is another aspect of the case which cannot be totally ignored. As discussed above, complainant has not been examined during the course of domestic enquiry. He has made a submission during the fact finding enquiry, as is clear from the enquiry proceedings. But as discussed above, statement of the complainant recorded during the fact finding enquiry, which is ex-parte in nature and cannot be taken into consideration as substantive evidence under the law. Even during the course of proceedings before this Tribunal no steps were taken to examine the complainant nor any explanation given for his non examination was given by the management. To my mind, non-examination of the complainant both during the domestic enquiry as well as before this Tribunal has dealt a crippling blow to the case of the management so as to prove misconduct against the workman.

38. I find support to this view of mine from the case of *Hardwari Lal Vs. State of Uttar Pradesh* decided on 27.10.1999 wherein Supreme Court has dealt with the question of non-examination of material witness, including the complainant and it was held that non-examination of such vital witness has prejudiced the case of the charged employee and their examination would have revealed regarding the true nature of the incident as such witness/complainant was the best person to speak regarding veracity of the incident. Rule of best evidence envisages that as far as possible a Department should adduce best possible evidence to prove the case against the opposite party/workman.

39. Learned A/R for the claimant also laid emphasis upon the fact that non-supply of documents has also caused prejudice to the workman and management from the very inception was acting in a biased manner. Reliance was placed on *Bilaspur Raipur Kshetriya Gramin Bank Vs. Madan Lal* (2015 Lab.I.C. 3757) wherein a Field Supervisor of the bank was charge sheeted for having committed misconduct and departmental enquiry was conducted against him. Finally the disciplinary authority imposed punishment of 'removal from service'. It was contended on behalf of the workman that at the time of service of the charge sheet, list of documents and witnesses were not supplied, as a result of which the delinquent employee was not in a position to put forward his case, including reply in a proper manner. It was also held by the Hon'ble Apex Court that though during the course of enquiry, required documents were supplied but non-supply of the same at the time of service of the charge sheet to the delinquent employee is really fatal to the case of the department. In the case on hand also, it is clear from the record of the domestic enquiry that list of documents and witness was not supplied to the workman herein, who has later on asked for supply of the documents and during the course of enquiry proceedings on 14.03.2006 there is mention of the fact that the charged employee has been delivered with the requisite documents.

40. Lastly, there is considerable merit in the submission of the workman that management was acting in a biased manner so as to hold the workman guilty from the very inception. As discussed above, there is ample evidence on record that prior to the present incident. Shri Ashok Kumar picked up a quarrel and misbehaved with Ms.Parvinder Kaur, who has also lodged a complaint against him. Not only this, even the workman herein has also filed a written complaint against him regarding misbehavior with the workman, but no action appears to have been taken on the basis of the said complaint by the management. There is also ample evidence on record to suggest that Shri Ashok Kumar was in the habit of taking narcotics/smack etc. This fact has even been admitted by the witnesses examined by the management during the course of domestic enquiry. Even in the reply dated 16.05.2007 there is mention of this fact by the workman in his reply. However, no action appears to have been taken by the management on the complaint filed by the workman herein or by Ms.Parminder Kaur, AAO, Accounts Department regarding misbehavior of Shri Ashok Kumar with these persons. This clearly shows the biased approach of the management towards the workman. It has been held in *State of Punjab vs. V.K. Khanna* (AIR 2001 SCC 343) that enquiry is required to be conducted by the Enquiry Officer in a manner so as to show fair and reasonable approach without any element of malice or malafide. Various questions, as discussed above, put to other witnesses at the start of their examination clearly shows that the Enquiry Officer has acted in a biased manner. It was further held that proceedings on record suggest that the disciplinary authority had a closed and biased mind even at the time of service of the charge sheet as well as subsequently. In that eventuality, enquiry cannot be held to be fair or in consonance with law. I have carefully gone through the ratio of law in the *Muriadih colliery of Bharat Colliery Coal Ltd. case* (supra) relied upon by the management. There is hardly any dispute with the proposition of law enunciated in the above ruling but the question of applicability of the ratio of the ruling would arise only when it is proved on record that the domestic enquiry has been held in accordance with law and the same has been found to be valid. Not only this, management is also required to prove gravity of the offense as well as charges contained in the charge sheet. Thereafter only, question of imposing/severity of the punishment would arise. In view of these reasons, I am constrained to conclude that the enquiry conducted by the bank against the claimant cannot be held to be fair and proper being in violation of principles of natural justice and having been conducted in an unfair manner. Hence, preliminary Issue No.2 pertaining to fairness of enquiry is also answered in favour of the claimant and against the management.

### Issue No. 3

41. In fact, there is no legal requirement to give any findings on Issue No.3, which is 'Whether the punishment awarded to the claimant commensurate to his misconduct?', since this Tribunal, while rendering findings on Issue No.1 and 2 has held vide order dated 30.08.2016 that the domestic enquiry conducted by the management is unfair and against principles of natural justice; as such, Issue No.3 has now become redundant. Question of giving findings on Issue No.3 would arise only if the Tribunal has found that the domestic enquiry to be valid and in accordance with law. Accordingly, no finding is required to be rendered on the question whether punishment awarded to the claimant commensurate with the gravity misconduct, when no misconduct is found to have been proved against the workman.

42. It is pertinent to mention here that the management has not reserved its right to adduce evidence on merits before this Tribunal in case the domestic enquiry is ultimately found to be unfair and against the principles of natural justice nor any application was moved by the management at the earliest, seeking permission from this Tribunal to adduce evidence on merits qua misconduct alleged to have been committed by the workman. In such a situation, this Tribunal is of the considered view that no opportunity can be accorded to the management to adduce evidence on merits.

43. As a sequel to my above discussion, Issue No.1 and 2 are decided in favour of the workman and against the management and it is held that the domestic enquiry conducted by the management is unfair and in violation of principles of natural justice. Action of the management in imposing penalty of reduction in basic pay to the lowest stage in the time scale as applicable to Assistant (T), i.e. reduction of 17 increments, including non-counting of his suspension period for services of Shri Anurag Verma, the workman herein, is held to be neither legal nor justified. An

award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

October 3, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2380.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सेन्ट्रल वेयरहाउसिंग कार्पोरेशन के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 115/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-42011/2/2016-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2380.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 115/2016) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Central Warehousing Corporation and their workman, which was received by the Central Government on 23.11.2016.

[No. L-42011/2/2016-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No. 115/2016**

The General Secretary,  
Hindustan Engineering & General Mazdoor Union (Reg.)  
D-2/24, Sultanpuri,  
New Delhi - 110086

...Workman

#### Versus

1. The Management of Central Warehousing Corporation,  
Scope Minar,  
Laxmi Nagar,  
New Delhi - 110096
2. M/s Suman Forwarding Agency Pvt. Ltd.  
ICD, Near Ghazipur Village,  
Patparganj,  
New Delhi- 110096

...Managements

#### AWARD

Central Government, vide letter No. L-42011/2/2016-IR(M) dated 12/04/2016, referred the following industrial dispute to this Tribunal for adjudication:

“Whether the action of the managements in reducing the rates of wages from minimum wages for semi-skilled workers to minimum wages for unskilled workers per day is illegal and/or unjustified and if so to what relief they are entitled to and what directions are necessary in this regard?”

2 In the reference order, the appropriate Government commanded the party/ies raising the dispute to file statement of claim, complete with relevant documents, list of reliance and witnesses with this Tribunal within 15 days of receipt of the reference order and to forward a copy of such statement of claim to the opposite parties involved in the dispute. Despite directions so given, no statement of claim has been filed on behalf of claimant union with the tribunal.

3. On receipt of the above reference, notice was sent to the claimant union as well as the managements. Neither the postal article, referred above, was received back nor was it observed by the Tribunal that postal services remained affected in the period, referred above. Therefore, every presumption lies in favour of the fact that the above notice was served upon the claimant union. Despite service of the notice, claimant union opted to abstain away from the proceedings. No claim statement was filed on their behalf. Thus, it is clear that the workman is not interested in adjudication of the reference on merits.

4. Since the claimant union has neither put in their appearance nor have they led any evidence so as to prove their cause against the management, as such, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim' award. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 6, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2381.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कॉर्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 187/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-30011/63/2004-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2381.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 187/2011) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Indian Oil Corporation Ltd. and their workman, which was received by the Central Government on 23.11.2016.

[No. L-30011/63/2004-IR (M)]

RAJESH KUMAR, Under Secy.

#### ANNEXURE

**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI**

**ID No. 187/2011**

The General Secretary,  
Delhi Multi Storeyed Building Employees Congress,  
Vandana Building, 1, Tolstoy Marg,  
New Delhi-110 001

...Workman

Versus

The Senior Plant Manager,  
Indian Oil Corporation Ltd.  
Shakur Basti Terminal,  
New Delhi-110 056

...Management

#### AWARD

A reference was received from the Government of India, Ministry of Labour vide letter No.L-30011/63/2004-IR(M) dated 09.11.2004 with the following terms of reference:

Whether the demand of the Delhi Multi Storeyed Building Employees Congress, New Delhi relating to regularization of service of the contract labourers mentioned below in the establishment of Indian Oil Corporation, Shakurbasti Terminal Delhi-110034 is just, fair and legal? If yes, to what relief these workmen

are entitled and from which date? S/Shri Baljeet Singh, Bheem Singh, Shiv Shankar, Budh Ram, Moti Lal, Rajendra Singh, Om Prakash I, Om Prakash Jha II, Laxman Mishra, Parmanand Jha and Ravinder Singh.

2. It is clear from the statement of claim filed on behalf of the workmen that the claimants have been engaged primarily for the work of supply of mobil containers from store and putting back filled mobil containers/tins in depots at Shakurbasti by the Indian Oil Corporation Ltd.(in short the management).through its different agencies. Claimants have been working continuously for the last two decades for the management. Case of the workmen was also espoused by the union. In fact, the management engaged workmen ostensibly on papers through different agencies/contractors. Aforesaid agents/contractors are merely name lenders with no control over workers/claimants regarding their terms and conditions. Engagement of these claimants through contractors appears to be camouflage and if the veil is lifted, it would show that there is direct relationship of employer and employee between the management and the claimants. Contractors have been acting as only agents of the management. Services of the claimant herein were without any break in spite of change of agency/contractors. It is also alleged that the power to terminate the workmen from service as well a payment of wages, leave, assigning duties etc. are also determined by the management. Workers, in fact, were paid wages by the management.

3. Management is not registered under the provisions of Contract Labour Regulations Act, 1970(in short CLRA) and rules made therein nor the contractors have obtained licence under the said Act. The appropriate Government has already abolished engagement of contract labour by issuing notification under Section 10 of CLRA vide notification dated 20.01.1997. The job performed by the claimant is permanent and perennial in nature. As per clause 10 of the V Schedule of the Act, employing workmen as badlis, casuals and temporaries for years together amounts to unfair trade practice. Management ought to have regularized services of the claimant instead of exploiting them by engaging them through different contractors.

4. It is also the contention of the claimants that in 1995, they were covered by notification dated 20.04.1987 issued by the Delhi Government. Claimants also filed a civil writ petition bearing No.4579/1995 before Hon'ble High Court of Delhi for regularization of their services with the aforesaid management. During pendency of the writ petition, notification dated 20.04.1987 was quashed by the Hon'ble High Court on 01.10.1996 on the grounds of jurisdiction. However, during pendency of the said petition, fresh notification dated 21.10.1997 was issued by the appropriate Government prohibiting inter alia the work done by the claimants herein under Section of the CLRA. After issuance of the above notification, claimants were entitled for regularization of their services by the management. After disposal of the above writ petition, claimants called a meeting of the workers, wherein it was resolved on 10.01.2003 to raise an industrial dispute. Hence, the present reference.

5. Claim of the workmen was contested by the management who filed written statement thereto my taking several preliminary objections, including the fact that the present case cannot be treated as an industrial dispute under section 2(k) of the Act. There was also reference to the earlier writ petition as well as issuance of notification dated 20.04.1987 by the appropriate Government. It is alleged that the claimants, in their earlier writ petition, changed their stand from time to time and abandoned the same conveniently when notification dated 20.04.1987 was quashed vide order dated 01.10.1994 by the Hon'ble High Court of Delhi. Thereafter, claimants changed their stand that they were covered by the second notification dated 21.10.1997 issued under Section 10 of the Act. It has been alleged that M/s. Shakti Cleaning Agency was a general haulage contractor for providing the following services:

- (i) Transportation and distribution of lube oil in Delhi and other outlets
- (ii) Transportation of lube oils and grease drums from Delhi, New Delhi and Nangloi Station
- (iii) Transportation of mechanical pumps, motors, starters and other store material if and when required
- (iv) Transportation and handling of steel plates, stocking and de-stocking steel pipes from one place to another
- (v) Providing of courier service
- (vi) Binding of voucher
- (vii) Stacking and de-stacking of cement bags
- (viii) Loading and unloading of stationery items
- (ix) Maintenance of lawns and gardens
- (x) Outdoor jobs for providing liaison work with bank, post office, octroi, railway, excise, telegraphs, electricity office etc.
- (xi) Grass cutting
- (xii) Clearing of oil water separator, cleaning of line strainers, tank cleaning and other miscellaneous jobs

6. The above jobs were being executed through contractors who have engaged labour and was having supervision and control over such labour. Management had entered into valid contract for getting services. It has been denied that the claimants are working for the last 20 years under the management. It is also denied that the claimants were engaged for supply of mobil containers from stores. The claimants had earlier claimed that they were engaged for LPG cylinder work and allied activities. Management also denied other material averments contained in the statement of claim. It has been alleged that it is the discretion of the contractor to retain the workers.
7. The claimant filed rejoinder in support of the stand taken in the statement of claim and denied the material averments contained therein.
8. Claimant, in support of their case examined Shri Om Prakash as WW1 and his affidavit is Ex.WW1/A. He tendered in evidence documents Ex.WW1/1 to Ex.WW1/18.
9. Cross examination of Shri Om Prakash, WW1 concluded on 05.11.2007. Thereafter, the case was transferred from Central Government Industrial Tribunal cum Labour Court No.2 to this Tribunal vide order No.Z-22019/6/2007-IR (C-II) dated 30.03.2010.
10. Claimants examined Shri Jagdish Prasad as WW2, whose affidavit is Ex.WW2/A. His cross examination was conducted partly and thereafter several opportunities were granted for remaining cross examination of Shri Jagdish Prasad, but he failed to put in his appearance on one pretext or the other. Hence, claimants were proceeded ex-parte under Rule 22 of Industrial Disputes (Central) Rules, 1957 vide order dated 17.04.2013. On 17.04.2013 itself, affidavit of Shri Vishal, Manager(Employee Relations) on behalf of the management, besides documents, were taken on record and the case was listed for an award.
11. On 14.08.2014, an application was received on behalf of the claimants for setting aside order dated 17.04.2016 vide which they were proceeded ex-parte, which order was set aside vide order 01.11.2013 and opportunity was again granted to the claimants for adducing remaining evidence on their behalf.
12. It is clear from perusal of record that on several dates of hearing, i.e. 01.07.2014, 06.08.2014, 16.09.2014, 22.10.2014, 09.12.2014, 20.01.2015, 11.03.2015, 14.05.2015, 13.07.2015 and 03.09.2015 none appeared on behalf of the claimant union. In fact, examination of Shri Jagdish Prasad, witness of the claimant union was to be done by the management, when neither the claimants nor any authorized representative on behalf of the claimant union appeared so as to assist the court. Resultantly, evidence of the claimant was closed vide order 11.03.2015. When matter was listed for evidence of the management, an application was filed by the A/R for the management for rectification/correction of the clerical errors which had emerged in the cross examination of Shri Om Prakash, WW1, the said application was to be considered at the time of final hearing of the main claim petition so as to consider merits of the application alongwith the main case. Management, in fact has not examined any witness due to the reason that evidence of the claimant was closed midway.
13. Since none appeared on behalf of the claimant on several dates of hearing, as discussed above, nor the claimants put up their appearance so as to pursue their case before this Tribunal, as such, this Tribunal is of the considered opinion that it is a fit case where 'no claim/dispute' award deserves to be passed. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : October 20, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 29 नवम्बर, 2016

**का.आ. 2382.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ई. एस.आई. अस्पताल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 24/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 23.11.2016 को प्राप्त हुआ था।

[सं. एल-15011/1/2013-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 29th November, 2016

**S.O. 2382.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 24/2014) of the Central Government Industrial Tribunal/Labour

Court-2, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. ESI Hospital and their workman, which was received by the Central Government on 23.11.2016.

[No. L-15011/1/2013-IR (M)]

RAJESH KUMAR, Under Secy.

### ANNEXURE

#### **CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT - II, ROOM NO.33, BLOCK-A,GROUND FLOOR, KARKARDOOMA COURT COMPLEX, KARKARDOOMA, DELHI 110 032**

**Present:-** Shri Harbansh Kumar Saxena

**ID.No. 24/2014**

General Secretary,  
Rastriya Rajdhani Shetra Engg. &  
Gen. Maz. Union (Regd.), C-139, Karampura,  
New Delhi-110015

...Workman

#### **Versus**

1. The Manager  
M/s ESI Hospital  
Sector-15, Rohini,  
New Delhi-85
2. The Manager,  
M/s. Vishakha Enterprises  
30/42. Street No.8, Main Road,  
Opp. Andhra bank, Vishwas Nagar,  
Shahdara, Delhi-32

...Managements

### AWARD

Reference No. L-15011/1/2013-IR(M) dated 17.02.2014 issued by ministry of Labour received in this tribunal on 18.03.2014.

On the basis of which ID. Case No 24 of 2014 was registered and notices were issued to parties for 30.04.2014 calling upon workman to file her claim/statement.

In schedule of reference following questions of determination are mentioned:-

“Whether the action of the management of M/s Vishakha Enterprises in terminating the services of Smt. Asha E-House Keeper w.e.f 13.01.2013 is justified or not? If not, what relief will be given to the workman and from which date?”

On the basis of which workman/claimant Smt. Asha filed claim/statement on 30.04.2014 wherein she mentioned that she is working as House Keeper in management No. 1 through contractor management No. 2 since June 2006 since her illegal termination on 13.01.2013.

She alleged that she worked for more than 240 days in each calendar year since June 2006 till 13.01.2013. Although she admitted this fact she is contractual employee she prayed for her reinstatement alongwith full back wages etc.

Respondent No. 2 filed its written statement on 28.07.2014.

Wherein it derived the allegation of workman and prayed for dismissal of claim/statement as it is false and frivolous.

On 15.10.2014 workman filed his rejoinder. Wherein he reaffirmed the contents of claim/statement.

On 04.12.2014 management No. 1 filed its reply affidavit wherein its alleged as follows its preliminary submissions and parawise reply:-

- I. That the answering respondent is a Hospital established under the provisions of the Employees' State Insurance Act, 1948 and is engaged in providing medical benefits to the employees and there beneficiaries covered under the provisions of the said Act.

- II. That the respondent No. 2 is the contractor engaged by the answering respondent to provide house keeping services to its purely on contractual basis.
- III. That as per the said contract the respondent No. 2 was to provide house keeping services to the answering respondent and thereafter the said contractor stands concluded and terminated and presently the services are provided by some other agency.
- IV. That as per the terms of the said contract, it is for the contractor to provide specified number of employees at the hospital at the particular given point of time. The person so engaged shall be purely at the violation of the contractor and the answering respondent has no right whatsoever to dictate as to who is to be employed where. It is for the supervisors employed by the respondent No. 2 to decide on a given day as to which workmen shall be deputed where and also as to their shifts etc. The answering respondents have absolutely no say either in engagement or in dismissal of any of employees/ workmen of M/s. Vishakha Facility Management and the present dispute is between M/s. Vishakha Facility Management and its workmen. The answering respondent is neither necessary nor proper party to the present dispute and seeks discharge from the present claim accordingly on this ground itself.
- V. That it is also pertinent to mention herein that no complaint has ever been received by the answering respondents from the claimant herein or any of the persons engaged by the respondent No. 2 at the premises of answering respondent with respect to non payment of minimum wages or violation of any other labour laws whatsoever.

#### PARAWISE REPLY:

1-18. Para 1 to 18 of the claim petition as far as are in contrary to the record and preliminary submissions above are wrong and denied. The contents of the preliminary submissions may also be read in reply to these Paras as the same are not repeated herein for sake of brevity.

In view of the submissions made above this Hon'ble authority may be please to dismiss the present claim petition being devoid of any merit, in favour of the respondents and against the claimant.

On 04.12.2014 I framed following Issues:-

1. Whether the action of management of M/s. Vishaka Enterprises in terminating the services of Smt. Asha, E-House Keeper w.e.f. 13.01.2013 is justified or not? If so, its effect?
2. To what relief the workman is entitled to and from which date?

Fixed 16.01.2015 for workman evidence

On 16.01.2015 Ld. A/R for workman sought adjournment. Which was allowed and case was adjourned to 23.03.2015 for workman evidence.

On 23.03.2015 workman filed her affidavit in her evidence.

On 18.01.2016 workman tendered her affidavit and her cross-examination deferred to 07.03.2016.

On 07.03.2016 case adjourned to 26.04.2016 as last opportunity to cross-examination WW1.

On 26.04.2016 case was adjourned to 30.05.2016 for last opportunity to cross-examine WW1.

On 30.05.2016 none turn up to cross-examine WW1 hence right of cross-examine of management has been closed and 09.06.2016 was fixed for management evidence.

On 09.06.2016, 01.08.2016 was fixed for management evidence.

On 01.08.2016, 22.08.2016 was fixed for management evidence.

When management adopted dormancy in adducing its evidence this management evidence has been closed on 22.08.2016 and fixed 14.09.2016 for argument.

On 14.09.2016 Ld. A/R for workman filed written arguments. Then I reserved the Award with liberty to management to file written arguments or oral argument but its failed.

In the light of claim statement of Ld. A/R for workman I perused the pleadings and evidence on regard. Which shows that workman was contractual employees and last contract between respondent No. 1 and respondent No. 2 has already come to end on 30.06.2014.

This tribunal is not empowered to extend the prefixed period of contract between parties i.e. respondent No. 1 and respondent No. 2 (contractor).

Due to which claimant/workman can not be deemed in contracted services of respondent No. 2 for respondent No. 1. So there is no cause of action to workman against any management So far wage for December, 2012 of workman is concern he has received it on the basis of compromise. So his claim is barred by principle of estoppels.

Hence there is no need and justification to determine question of determinism mentioned in Schedule of reference.

Reference is liable to be decided against workman and in favour of managements. Which is accordingly decided and claim statement is dismissed.

Award is accordingly passed.

Dated : 05/10/2016

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 30 नवम्बर, 2016

**का.आ. 2383.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार आईआई एण्ड एससीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 83/2000) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-20012/239/2000-आईआर (सी-I)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th November, 2016

**S.O. 2383.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (I.D. No. 83 of 2000) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. II & SCL and their workmen, which was received by the Central Government on 30.11.2016.

[No. L-20012/239/2000-IR (C-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

#### REFERENCE NO. 83 OF 2000

**PARTIES :** The Secretary,  
Rastriya Colliery Mazdoor Sangh, Rajendra Path, Dhanbad

**Vs.**

The Asstt.General Manager,  
Chasnalla Colliery ISP of IISCO  
PO : Chasnalla, Dhanbad -828135

Order No. L-20012/239/2000-(C-I) dt.24.07.2000.

**APPEARANCES :**

On behalf of the workman/Union : Mr. N.G. Arun, Ld. Representative

On behalf of the Management : Mr. D.K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 4<sup>th</sup> July, 2016

#### AWARD

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012/239/2000-(C-I) dt. 24.07.2000.

**SCHEDULE**

“Whether the demand of the Rastriya Colliery Mazdoor Sangh from the Management of , Chasnalla Colliery of IISCO for benefits of Life Cover Scheme in lieu of EDIL under C.M.P.F. Act under Sub-Clause 10.2.1 of the NCWA-II is legal and justified?”

None either from Union/workmen appeared on date nor produce the workman for evidence rolling over since 24.02.2014 covering more than ten adjournments. No further breakthrough is reported on the issue .Though three formal notices were sent to the Union on the address referred in the Order of the Reference itself but all went in vain. Contrary to it, Mr.D.K.Verma, Ld.Counsel for the Management is present not for this time but all along since its inception.

From the perusal of the case record, one thing prima facie appears to be absolutely clear that the way Union/workmen walk with proceedings of the case, they seem to be in no hurry to get evidence of the workman completed nor did bother to assign reasons for so much adjournments on their part. The status of the case is crawling over evidence of the workman since 24.06.2005 after having consumed more than ten adjournments. Though sufficient opportunities have been provided to the Union/workmen as well but they miserably failed to do so .This shows the real issue no longer holds merits at least, as of now. It usually does not seem proper and just in the natural interest to keep it alive and to drag it, and post dates for further hearing owing to sheer disinterestedness of the workman. Under these circumstances the case is closed and a ‘No Industrial Dispute Award’ is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 30 नवम्बर, 2016

**का.आ. 2384.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 06/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-20012/180/2004-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th November, 2016

**S.O. 2384.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (I.D. No. 06 of 2005) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 30.11.2016.

[No. L-20012/180/2004-IR (CM-I)]

M. K. SINGH, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD**

**PRESENT :** Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

**REFERENCE NO. 06 OF 2005**

**PARTIES :** The Regional Secretary,  
BCKU, PO: Kedla, Distt: Hazaribagh,

**Vs.**

The Project Officer,  
Parej East OCP of M/s. CCL, PO: Ghatotand,  
Distt: Hazaribagh

Order No. L-20012/180/2004-IR(C-I) dt.15.12.2004.

**APPEARANCES :**

On behalf of the workman/Union : Mr. S.N. Ghosh, Ld. Advocate

On behalf of the Management : Mr. D.K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 4<sup>th</sup> July, 2016**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. **L-20012/180/2004-IR(C-I) dt.15.12.2004.**

**SCHEDULE**

“Whether the demand of the union to regularize the service of Shri Kartik Behra as Drill Operator Gr.III “D” with all consequential benefits is justified? If so, to what relief is the workman entitled and from what date?”

Neither the workman/petitioner or the Representative appeared on date nor did file the long due substitution petition before the Court despite giving final chance since 18.2.2014. However since then several adjournments took place with posting of dates but no further headway in filing the substitution petition or appearance in wake of the workman as reported dead. Whereas Mr.D.K.Verma, Ld. Counsel for the O.P./Management registered his presence on date. The case relates to demand of the Union for regularization of the workman as Drill Operator with consequential benefits from retrospective date,

By going through the file & materials available on the case records, it transpires to dispel the doubts that after reported ‘death’ of the workman, as fact reflected in the order- sheet neither the Sponsored Union nor his kin seem to be not in hurry to get the case to finality through adjudication as no further step reported advanced despite more than ten adjournments. It shows to reflect the fact the real issue indeed ceases to exist in fact owing to utter reluctance on the part of the workman /union. It does not matter to set the case rolling for further dates rather wraps it up for final closure presuming no more issue, as of now. Moreover this definitely points out to sheer reluctance and unwillingness on the part of the workman/union to put the case for final adjudication but help add up to piling pendency of cases. Under the circumstances, it would not be proper to keep the case alive further in the interest of natural justice. So the case is closed as “No Industrial Dispute”. Accordingly an order of ‘No Dispute Award’ is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 30 नवम्बर, 2016

**का.आ. 2385.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 91/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-20012/56/2005-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th November, 2016

**S.O. 2385.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (I.D. No. 91 of 2005) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. CCL and their workmen, which was received by the Central Government on 30.11.2016.

[No. L-20012/56/2005-IR (CM-I)]

M. K. SINGH, Section Officer

**ANNEXURE****BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD****PRESENT :** Shri R.K. Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

**REFERENCE NO. 91 OF 2005**

**PARTIES :** The Area Secretary,  
Coal Field Mazdoor Union Tapin  
PO: Tapin, Distt: Hazaribagh

**Vs.**

The Project Officer,  
Tapin Project of M/s C.C.L.  
PO: Tapin, Distt: Hazaribagh.

**Order No. L-20012/56/2005-IR (C-I) dt..13.09.2005****APPEARANCES :**

On behalf of the workman/Union : Mr. B.B. Pandey, Ld. Advocate

On behalf of the Management : Mr. D.K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 19<sup>th</sup> July, 2016**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. **L-20012/56/2005-IR (C-I) dt..13.09.2005.**

**SCHEDULE**

“Whether the demand of the Coal Fields Mazdoor Union from the Management of Tapin Project of M/s Central Coalfields Ltd., for regularization of Shri Tulsi Mahato Time Rated Category-II workman to the post of Magazine Clerk is legal and justified? If so, to what relief is the concerned workman entitled and from what date?”

2. Neither the Sponsoring Union nor the workman reported to be present on date nor did produce the workman for evidence as last chance on their part. The fate of the case hangs in balance staggering over evidence of the workman but they repeatedly proved failure to close the chapter .Pertinent to it, two Regd. Notices dtt. 6.9.2007 and 4.3.2015 were sent to the Sponsoring Union's address but they did not respond either by appearing or getting evidence of the workman closed .Though earlier the Case was come up before the Lok Adalat but bounced back to regular adjudication due to failure of conciliation that did not yield the desired result .So far the OP/Management. Ld. Advocate Mr.D.K.Verma, registered his presence. The case is about regularization of the workman to the post of the Magazine Clerk in Tapin Project of M/s CCL.

On emphatically scrutinizing the case record and materials available on record , there is no misconception that the Union /petitioner concerned seems to be obsessed with taking frequent adjournment rather to ensure proper step being followed getting the case to finality through adjudication .It shows the workman is no longer interested to contest the case as sufficient opportunity was provided to the workman who proved failure even for closure of the chapter of evidence of the workman hanging since 22.05.2008 .As of now. the case seems to has lost its merits due to sheer disinterestedness as reflected from workman. Accordingly the ‘move ‘will not be unfair and unjust if the case is wrapped as ‘No Dispute Award’. Accordingly an Award of “No Dispute Award” is passed.

R. K. SARAN, Presiding Officer

नई दिल्ली, 30 नवम्बर, 2016

**का.आ. 2386.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार ए.आर. एअरवेज प्राईवेट लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 1, दिल्ली के पंचाट (संदर्भ संख्या 69/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-20013/2/2015-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th November, 2016

**S.O. 2386.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 1, Delhi (filed under Section 2-A in the matter of I.D. No. 69 of 2014) as shown in Annexure, in the industrial dispute

between the employers in relation to the management of M/s. A.R. Airways Pvt. Ltd. and their workmen, which was received by the Central Government on 30.11.2016.

[No. L-20013/2/2015-IR (CM-I)]

M. K. SINGH, Section Officer

### ANNEXURE

### IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 69/2014

Shri Pramod Kumar, S/o Late Shri Balbir Singh,  
R/o 8/163, Mehram Nagar,  
Palam Airport, New Delhi 110 037

C/o Indian Juris,  
777/1, Paschimpuri  
New Delhi 110 063

...Workman

### Versus

A.R. Airways Pvt. Ltd.  
8/23, Mehram Nagar,  
New Delhi – 110 037

...Management

### AWARD

Brief facts giving rise to the present case are that the claimant Shri Pramod Kumar, the workman herein, has alleged that he was working on permanent basis with A.R. Airways, management, as electrician with effect from 06.12.2010 and his last drawn salary was Rs.8600.00 per month. He has been performing his duties honestly and without any complaint whatsoever from the management. In fact, Shri Shreshtha Dev Burman, Manager(HR) wanted to keep her own electrician in place of the claimant as a result of which he was nursing a grudge against the workman. Services of the workman was orally terminated on 23.03.2013 and a new workman was engaged in place of the workman herein in violation of provisions of Section 25N, F, G and H of the Industrial Disputes Act, 1947(in short the Act).

2. Claimant has worked for more than 240 days continuously with the management and management has issued letter dated 25.03.2013 simply stating that services of the claimant are terminated with effect from 19.03.2013. the above letter is illegal, unjustified and in violation of mandatory provisions of the Act as well principles of natural justice. Even otherwise, juniors to the claimant were retained and only claimant was singled out for termination of the job. Claimant has sent demand notice on 25.03.2013. However, management has not responded to it. Claim was also filed before the Conciliation Officer. However, management did not show any signs of conciliation, as a result of which conciliation failed. A prayer has been finally made for reinstatement of the claimant with full back wages, alongwith consequential benefits and declaring the termination of the service of the claimant as illegal and unjustified.

3. Claim was resisted by the management who filed written statement. In the preliminary objections, it has been alleged that the act of the management in terminating services of the workman are by way of punishment as disciplinary action was taken against the claimant. Therefore, such termination is outside the scope of section 2(oo) of the Act, which defines retrenchment. Therefore none of the provisions contained in Section 25N, F, G and H would apply in the instant case. Management has not violated provisions of the Act. On merits, it is admitted that the workman was employed as electrician vide appointment letter dated 06.12.2010 and his gross salary was Rs.6500.00 and lastly he was drawing Rs.8600.00 on 19.03.2013 when his services were terminated. He was not working on permanent post of electrician and his wages were only Rs.4300.00 and the remaining amount was pertaining to other allowances and entitlements. It is also denied that claimant was working continuously with the management. There were several complaints against the workman right from 2011 to 2013 as claimant was known for unruly and rude behavior. He was also disobedient, abusive and in-disciplined. Most of the time he was having dishonest behavior and he has offered apologies also. He was given warning by the management on 25.05.2011 and claimant has submitted written apology to the management on 27.05.2011. There was also complaints made by Shri Vinod Kumar, Supervisor of the management on 12.03.2012. conduct of the claimant. Another complaint was made by Shri Bipin Dubey on 26.06.2012 and one more complaint was also made by the Security Supervision on 01.09.2012 regarding unruly and rude and abusive behavior of the claimant. It was because of these reasons that the management decided to terminate his services with effect from 31.10.2012 and the above termination letter was also signed but could not be handed over to the workman who pleaded guilty and also apologized for his misconduct. Claimant also filed representation to the

CEO, giving an undertaking that in future he would not be unruly, rude, disobedient, indisciplined and abusive in his behavior and would perform his duties honestly and maintain discipline in discharge of his duties. Management has denied other averments contained in the statement of claim. Management has admitted the demand notice dated 25.03.2013 sent by the claimant to the management as well as failure of proceedings before the Conciliation Officer. Management has denied the other averments contained in the statement of claim.

4. Against this factual background, this Tribunal vide a order dated 11.08.2015, framed the following issues and thereafter case was listed for evidence of the workman:

(1) Whether the petitioner is entitled for reinstatement with full back wages alongwith consequential benefits, as alleged?

(2) Whether the management is rightly terminated services of the workman without conducting enquiry?

5. None appeared on behalf of the management to purify testimony of the claimant by an ordeal of cross examination, as such management was proceeded ex-parte on 20.07.2016.

6. Workman, in support of his averments made in the claim, examined himself as WW1 and tendered in evidence documents Ex.WW1/1 to Ex.WW1/5. Since none was there for the management, hence no opportunity could be granted to them to carry out cross examination of the claimant. The claimant had closed his evidence. No witness was adduced on behalf of the AIIMS to rebut facts proved by the claimant.

7. Arguments were advanced at the bar by Shri Neeraj Chaudhary, authorized representative for the workman. None appeared on behalf of the management to advance arguments.

8. I have given my careful consideration to the material available on record and arguments advanced at the bar on behalf of the workman. My findings are as under:

#### **Issue No.1 and 2**

9. Since issue No.1 and 2 are interconnected, as such, they are being taken up together for the purpose of discussion. It is clear from the pleadings on record as well as perusal of affidavit Ex.WW1/A, which remained unrebutted, that the workman herein was engaged as electrician by the management on 06.12.2010. There is reference to Shri Shreshtha Dev Burman, Manager(HR) who wanted to keep some other person in place of the workman herein, as a result of which Shri Shreshtha Dev Burman terminated services of the claimant on 23.03.2013 and employed another workmen, which is totally in violation of provisions of Section 25 N, F, G and H of the Act. Management has also served letter dated 25.03.2013 terminating services of the workman herein.

10. During the course of arguments, attention of the court was invited by the learned authorized representative for the claimant to letter of appointment Ex.WW1/1, which clearly shows that A.R. Airways, i.e. management herein has issued letter of appointment in favour of the workman and it is clear from perusal of the letter that employment of the claimant would commence from 06.12.2010 and has gross salary initially would be Rs.6500.00. Workman would be on probation for a period of 6 months from the date of appointment and after completion of probation period, offer of employment can further be extended. There is also another letter Ex.WW1/2 dated 25.03.2013 which shows that service of the workman herein was terminated with effect from 19.03.2013 and the same has been issued by Shri Shreshtha Dev Burman, Manager(HR). There is yet another letter dated 09.03.2013 Ex.WW1/3 which in fact is termination letter. Perusal of the letter shows that the workman herein has been found on numerous occasions not performing his duties satisfactorily and warning was also issued to the claimant. He was also not obeying instructions of his superiors and used to argue with them. It was on account of this that his services appear to have been terminated. Claimant has also tendered in evidence his claim filed before the Conciliation officer vide Ex.WW1/4. Admittedly, conciliation proceedings failed and since no reference was made within the stipulated period of 45 days, as required under section 2A of the Act, workman herein availed statutory provisions and directly filed statement of claim.

11. Shri Neeraj Chaudhary, authorized representative appearing on behalf of the workman urged that in the present case there is complete violation of provisions of Section 25F of the Act as well as provisions of Section 25 N, G and H of the act. Learned A/R for the workman proceeded to argue that relationship of employer and employee between the parties stands fairly admitted from the stand taken by the management in their written statement. It is further clear from perusal of letter of appointment letter dated 06.12.2010 Ex.WW1/1 that the claimant herein was engaged as electrician by the management on a gross salary of Rs.6500.00. There is nothing on record to suggest that there was any break in service in the employment of the workman after the above date. Management has not filed any document so as to show or prove that behavior of the claimant herein was very rude and he was not performing his duties efficiently. The management has not proved any show cause notice /memo or charge sheet so as to ascertain the nature

of allegations/misconduct against the workman. The management has also not adduced any evidence or conducted any kind of enquiry so as to prove misconduct on the part of the workman in the discharge of his official duties.

12. Admittedly, in the present case neither one month notice as required under Section 25F of the Act was served before issuance of letter of termination Ex.WW1/3 nor the claimant was paid one month wages in lieu of such notice, as required under clause (a) of Section 25F of the Act. It is now well settled position in law that services of the workman who has completed 240 days during the preceding 12 months is required to be served with one month notice, in writing, communicating the reasons for his termination or retrenchment or payment of one month notice in lieu of such notice. In case there is any violation of the above provisions, then action of the management would be null, void and non-est in the eyes of law. Even provisions of 25F of the Act are mandatory and non-compliance of the same would render order of retrenchment as void ab initio as well as against principles of natural justice. As discussed above, relationship of employer and Employee between the management and the claimant stands fairly proved from the pleadings on record as well as documentary evidence after appointment of the claimant on 06.10.2012 vide Ex.WW1/1 and non-compliance of provisions of Section 25F of the Act by the management has now rendered order of termination to be illegal, void and non-est in the eyes of law.

13. Now, the residual question is whether the workman is entitled for reinstatement with back wages. Since the management in the instant case has not turned up to adduce any evidence so as to impeach the credit of the evidence led by the workman, this Tribunal is of the view that action of the management is totally illegal and cannot be held to be valid in the eyes of law. So far as question of reinstatement is concerned, Hon'ble Apex Court in a number of cases has taken a consistent view that when the management has passed order of termination against an employee totally in derogation of established norms and provisions of law, in that eventuality when there is no fault of the workman, he is liable to be reinstated with back wages. Moreover, this Tribunal cannot ignore that there is no evidence worth the name adduced by the management so as to prove anything against the workman herein. In such a peculiar circumstances, this Tribunal is of the considered opinion that the claimant is liable to be reinstated with full back wages.

14. As a sequel to my above discussion, it is held that termination of services of the claimant is totally void and illegal and he is liable to be reinstated with full back wages from the date of his termination. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

September 28, 2016

A. C. DOGRA, Presiding Officer

नई दिल्ली, 30 नवम्बर, 2016

**का.आ. 2387.**—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, धनबाद के पंचाट (संदर्भ संख्या 39/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 30.11.2016 को प्राप्त हुआ था।

[सं. एल-20012/115/2012-आईआर (सीएम-1)]

एम. के. सिंह, अनुभाग अधिकारी

New Delhi, the 30th November, 2016

**S.O. 2387.**—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award of the Central Government Industrial Tribunal-cum-Labour Court No. 2, Dhanbad (I.D. No. 39 of 2013) as shown in Annexure, in the industrial dispute between the employers in relation to the management of M/s. BCCL and their workmen, which was received by the Central Government on 30.11.2016.

[No. L-20012/115/2012-IR (CM-I)]

M. K. SINGH, Section Officer

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO.2), AT DHANBAD

**PRESENT :** Shri R.K.Saran, Presiding Officer

In the matter of an Industrial Dispute under Section 10(1) (d) of the I.D. Act, 1947

**REFERENCE NO. 39 OF 2013**

**PARTIES :** The Jt.Gen.Secretary,  
Bahujan Mazdoor Union,  
Mines Rescue Station, Dhansar  
PO: Dhansar, Dhanbad

**Vs.**

The General Manager,  
E.J.Area of M/s BCCL  
PO: Bhowra, Dhanbad.

**Order No. L-20012/115/2012-IR (CM-I) dt..11.02.2013**

**APPEARANCES :**

On behalf of the workman/Union : Mr. R.R. Ram, Ld. Advocate

On behalf of the Management : Mr. D.K. Verma, Ld. Advocate

State : Jharkhand

Industry : Coal

Dated, Dhanbad, the 19<sup>th</sup> July, 2016

**AWARD**

The Government of India, Ministry of Labour, in exercise of the powers conferred on them under Sec.10(1)(d) of the I.D. Act.,1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. **L-20012/115/2012-IR (CM-I) dt..11.02.2013.**

**SCHEDULE**

“Whether the action of the Management of Sudamdih Incline Mine of M/s BCCL in dismissing Sri Bhagirath Rajwar, M/Loader from the services of the Company vide order dated 28.07.2004 is fair and justified? To what relief is the concerned workman entitled to?”

2. On receipt of the Order No. **L-20012/115/2012-IR (CM-I) dt..11.02.2013** of the above mentioned reference from the Government of India, Ministry of Labour & Employment, New Delhi for adjudication of the dispute, the Reference Case No. 39 of 2013 was registered on 11.03.2013 and accordingly an order to that effect was passed to issue notices through the Registered Posts to the parties concerned, directing them to appear in the Court on the date fixed, and to file their written statements along with the relevant documents. In pursuance of the said order, notices by the Registered Posts were sent to the parties concerned.

Both the parties made their appearances and filed their pleadings and photocopies of their documents. The Union and the O.P./Management through their own Ld. Counsels respective appeared respectively, and contested the case.

2. Here is an another case of dismissal from service in respect of the workman Bhagirath Rajwar ,a designated M/Loader was a permanent workman at Sudamidh Incline Miner under EJ Area of M/s BCCL. The workman is reportedly chagesheeted over his alleged absentism from duty since 14.02.2003.As explained by the Sponsoring Union on behalf of the workman in the W.S. that the workman had been absenting from his duty since 14.0.2003 as he left for his native place where he was engulfed in a property row with nearest kin of his family as cited reasons behind workman’s alleged absentism but he admitted to having replied to the charge sheet. The workman further added of passing on the alleged information of his absentism through his colleague to apprise of the Management of the situation, but only verbally not in written as being ignorant of the rules and regulations of the said Company. Though Management did not record of it. On return back from native home the workman went straight to resume duty but he was not allowed nor did heard his requests .Later on by slapping charge sheet upon the workman the Management dismissed the workman from service. So the whole of act of the Management is to be termed as malice, unfairly and unjustified declaring even the enquiry proceedings also unfair and improper. The alleged act of dismissal is to be termed violation of the natural justice. The workman sniffed foul play behind the alleged action and cries for restoration of his original job as being no other source of income for sustaining livelihood of his family members.

Contrary to it,the O.P./Management. asserted categorically denying all the charges brought upon against it that the absentism of the workman was not singled out to one incident engulfing therein he was forced to remain for prolonged leave. The workman concerned turned it into the habitual much earlier despite Management all along took lenient view, time and again, upon the workman but the workman kept on indulging in nefarious game. The past track records of his service corroborated to the fact. Minding nothing , he again started absenting without prior information and permission of the Management for which he was slapped with charge sheet .On not being found satisfactory to reply against the chargehseet, the Management went on to constitute domestic enquiry with presence of the delinquent workman. The worker concerned was found guilty of the charges levelled against him and holding him responsible as

suggestions came out of the Enquiry Report submitted to the Disciplinary Authority. The Competent Authority issued Second Show Cause Notice upon the workman along with copy of the enquiry report before dismissing the workman from service and taking into counts his past history track records of absentism .So the conduct and manner in which enquiry was held was fair and proper and nothing sort of injustice pointed out from any quarter as full opportunity was provided to come out in his defence At last the dismissal is legal and justified which the workman deserves for.

Though arguments and counter arguments by each other and vice-versa with logic continue to haunt in best possible way to suit the interest of the party concerned .Though job of Coal Mazdoor obviously an arduous and tedious in nature which needs a hale and hearty structure of health all the time and more physical labour particularly in underground Mines shrouding very odds unhygienic atmosphere, overall venturing into life risks .However, there is nothing unusual on the part of the workman proceeding on prolonged leave even on a single call of urgency, to avoid venturing out in the Mines for work. This occasionally proves fatal and forces them to expose casualty keeping of lives at stake despite best mechanism of safety norms in place. Though the workman has set the logics very candidly. The punishment of dismissal imposed upon the workman to the misconduct, he committed, however does not stand proportionate and may be termed harsher as he was robbed off his bread and butter with no means of alternative livelihood.

Hence the Tribunal is of the view that the move will not be termed wrong and improper if the workman concerned be provided a little bit breather by way of employment as fresher in Cat.-I as General Mazdoor. Thus it is ordered for fresh employment of the workman concerned as fresher as Cat.-I with probation rolling over up to 2 years.

R. K. SARAN, Presiding Officer